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Committee on, 1949
HOUSE OF COMMONS 47907

1949 (48)

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SECOND SESSION

STANDING COMMITTEE

ON

BANKING AND COMMERCE

Bill No. 149 (Letter F of the Senate) An Act Respecting
Bankruptcy

MINUTES OF PROCEEDINGS AND EVIDENCE (2 report)

No. 1

WEDNESDAY, NOVEMBER 23, 1949

THURSDAY, NOVEMBER 24, 1949

FRIDAY, NOVEMBER 25, 1949

WITNESS

T. D. MacDonald, Esq., K.C., Superintendent of Bankruptcy,
Department of Justice, Ottawa.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.P.L.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY

1949



REPORT TO THE HOUSE OF COMMONS

WEDNESDAY, 23rd November, 1949.

The Standing Committee on Banking and Commerce begs leave to present the following as a

FIRST REPORT

Your Committee recommends:

1. That its quorum be reduced from 15 to 10 members and that in relation thereto Standing Order 63(1) (d) be suspended.
2. That it be empowered to print from day to day, 700 copies in English and 250 copies in French of its minutes of proceedings and evidence and that Standing Order 64 be suspended in relation thereto.

All of which is respectfully submitted.

HUGHES CLEAVER,
Chairman.

ORDERS OF REFERENCE

HOUSE OF COMMONS,
WEDNESDAY, 12th October, 1949.

Resolved,—That the following Members do compose the Standing Committee on Banking and Commerce:—

Messrs.

Adamson,	Fournier (<i>Maisonneuve-Rosemont</i>),	McCusker,
Argue,	Fraser,	McLean (<i>Huron-Perth</i>),
Arsenault,	Fulford,	Picard,
Ashbourne,	Fulton,	Prudham,
Beaudry,	Gibson (<i>Comox-Alberni</i>),	Quelch,
Belzile,	Gour (<i>Russell</i>),	Richard (<i>Gloucester</i>),
Benidickson,	Harkness,	Richard (<i>Ottawa East</i>),
Bennett,	Harris (<i>Danforth</i>),	Rowe,
Blackmore,	Hunter,	Sinclair,
Bradette,	Isnor,	Smith (<i>York North</i>),
Breithaupt,	Laing,	Smith (<i>Moose Mountain</i>),
Brooks,	Leger,	Stewart (<i>Winnipeg North</i>),
Cannon,	Lesage,	Thatcher,
Cleaver	Low,	Weaver,
Coté (<i>St. Jean-Iberville-Napierville</i>),	Maltais,	White (<i>Hastings-Peterborough</i>),
Dumas,	Macnaughton,	Winters—50.
Fleming,	Maybank,	

(Quorum 15)

Ordered,—That the Standing Committee on Banking and Commerce be empowered to examine and inquire into all such matters and things as may be referred to them by the House; and to report from time to time their observations and opinions thereon; with power to send for persons, papers and records.

WEDNESDAY, October 26, 1949.

Ordered,—That the name of Mr. Hellyer be substituted for that of Mr. McLean (*Huron-Perth*) on the said Committee.

TUESDAY, November 22, 1949.

Ordered,—That Bill No. 149 (Letter F of the Senate), intituled "An Act respecting Bankruptcy", be referred to the said Committee.

Ordered,—That the said Committee be empowered to sit while the House is sitting.

WEDNESDAY, November 23, 1949.

Ordered,—That the name of Mr. Macdonnell (*Greenwood*) be substituted for that of Mr. Rowe, and

That the name of Mr. Riley be substituted for that of Mr. Leger on the said Committee.

WEDNESDAY, November 23, 1949.

Ordered,—That the quorum of the said Committee be reduced from 15 to 10 members and that in relation thereto Standing Order 63(1) (d) be suspended.

Ordered,—That the said Committee be empowered to print from day to day, 700 copies in English and 250 copies in French of its minutes of proceedings and evidence and that Standing Order 64 be suspended in relation thereto.

THURSDAY, November 24, 1949.

Ordered,—That the name of Mr. Helme be substituted for that of Mr. McCusker on the said Committee.

ATTEST.

LÉON J. RAYMOND,
Clerk of the House.

EXTRACT from Votes and Proceedings, House of Commons, Tuesday, 22nd November, 1949, at page 270:—

By leave of the House, on motion of Mr. Cleaver, it was ordered, That the Standing Committee on Banking and Commerce be empowered to sit while the House is sitting.

MINUTES OF PROCEEDINGS

HOUSE OF COMMONS,

Wednesday, November 23, 1949.

The Standing Committee on Banking and Commerce met this day at 4.30 p.m. The Chairman, Mr. Huges Cleaver, presided.

Members present: Messrs. Arsenault, Ashbourne, Beaudry, Belzile, Benidickson, Bennett, Breithaupt, Cleaver, Dumas, Fulford, Hellyer, Isnor, Laing, Lesage, Macnaughton, Picard, Quelch, Richard (*Gloucester*), Riley, Sinclair, Smith (*York North*), Stewart (*Winnipeg North*)—22.

In attendance: Mr. T. D. MacDonald, K.C., Superintendent of Bankruptcy, Department of Justice, Ottawa.

The Chairman expressed appreciation of his re-election as Chairman of the Committee.

On motion of Mr. Isnor:

Resolved—That Mr. Lesage be Vice-Chairman.

The Chairman advised that as the Committee was empowered by the House, yesterday, to sit while the House is sitting, the usual motion asking for such leave was not required.

On motion of Mr. Beaudry:

Resolved—That the Committee recommend that its quorum be reduced from 15 to 10 members.

On motion of Mr. Picard:

Resolved—That the Committee ask to be empowered to print, from day to day, 700 copies in English and 250 copies in French of the minutes of proceedings and of the evidence taken before the Committee.

In view of the imminent termination of the Session, it was agreed that the Committee would meet frequently, so that the passage of Bill No. 149(F) "An Act respecting Bankruptcy", may be expedited.

To facilitate the work of the Committee, the Chairman provided the Committee with copies of the proceedings of the Senate Banking Committee, 1949, in relation to Bill N, "An Act respecting Bankruptcy". The proceedings of the Senate Banking Committee in 1946 will also be made available, if required.

On motion of Mr. Breithaupt:

Resolved—That a Steering Committee of seven members be named by the Chairman. The Chairman advised that he had consulted party whips and then named the following to be members of the said Committee: Messrs. Cleaver, Isnor, Laing, Lesage, Macdonnell, Quelch, Stewart (*Winnipeg North*).

The Committee adjourned at 5.30 p.m., to meet tomorrow, Thursday, 24th November, at 11.30 a.m.

HOUSE OF COMMONS,
Thursday, November 24, 1949.

The Standing Committee on Banking and Commerce met at 11.30 a.m. The Chairman, Mr. Huges Cleaver, presided.

Members present: Messrs. Arsenault, Ashbourne, Belzile, Benidickson, Bennett, Cleaver, Dumas, Fleming, Fournier, (*Maisonneuve-Rosemont*), Fraser, Fulford, Gour (*Russell*), Harkness, Hellyer, Hunter, Isnor, Laing, Lesage (*Vice-Chairman*), Macdonnell, Macnaughton, Maltais, Quelch, Richard (*Gloucester*), Richard (*Ottawa East*), Smith (*Moose Mountain*), Stewart (*Winnipeg North*)—26.

In attendance: Messrs. T. D. MacDonald K.C., Superintendent of Insurance; J. S. LaRose, office of Superintendent of Insurance.

The Superintendent of Insurance made a statement and was questioned thereon.

The Chairman asked members of the Steering Committee to meet at 12.30 p.m.

The Committee adjourned at 12.30 p.m., to meet again this day at 3.30 p.m.

AFTERNOON SESSION

The Committee resumed at 3.30 p.m. The Chairman, Mr. Huges Cleaver, presided.

Members present: Messrs. Ashbourne, Beaudry, Belzile, Bennett, Cleaver, Dumas, Fleming, Fulford, Gour (*Russell*), Isnor, Laing, Lesage, Macdonnell, Quelch, Richard (*Gloucester*), Riley, Smith (*Moose Mountain*), Stewart (*Winnipeg North*)—18.

In attendance: As at morning session.

The Chairman reported that at a meeting of the Steering Committee he was instructed to draft a letter to be sent to persons who gave oral evidence before the Senate Committee. The Chairman read the proposed letter. (For text, see Evidence, page). It was agreed that this letter be sent.

It was further agreed that pending replies to this letter, the Committee will proceed with the consideration, clause by clause, of Bill 149. Clauses will be carried, subject to the reservation that if any member asks for reconsideration of any clause, that will be done.

The following clauses were considered and carried, subject to reconsideration: 1; 3 to 9, both inclusive; 11; 12 (subject to amendment to clause 94); 13 to 20, both inclusive; 21 (except subclause 15).

The following clauses stand: 2, 10.

The Committee adjourned to meet tomorrow, Friday, November 25, at 11.30 a.m.

HOUSE OF COMMONS,
Friday, 25th November, 1949.

The Standing Committee on Banking and Commerce met this day at 11.30 a.m. The Chairman, Mr. Hughes Cleaver, presided.

Members present: Messrs. Ashbourne, Belzile, Benidickson, Bennett, Cleaver, Dumas, Fournier (*Maisonneuve-Rosemont*), Fulford, Hellyer, Helme, Isnor, Laing, Lesage (*Vice-Chairman*), Macdonnell, Queleh, Richard (*Gloucester*), Riley, Stewart (*Winnipeg North*)—18.

In attendance: Messrs. T. D. MacDonald, K.C., Superintendent of Bankruptcy and J. S. LaRose, office of the Superintendent.

Consideration resumed of Bill No. 149, "An Act respecting Bankruptcy".

The following clauses were carried, subject to reconsideration: 22, 23, 24, 26 to 35 (both inclusive); 37, 38.

The following clauses stand: 25 and 36.

The Committee adjourned at 12.55 p.m., to meet again on Tuesday next, 29th November, at 11.30 a.m.

T. L. McEVOY,
Clerk of the Committee.

EVIDENCE

HOUSE OF COMMONS,
NOVEMBER 24, 1949.

The Standing Committee on Banking and Commerce met this day at 11.30 a.m. The Chairman, Mr. Hughes Cleaver, presided.

The CHAIRMAN: Gentlemen, we have a quorum. Is it your wish to hear first Mr. MacDonald, the Superintendent of Bankruptcy?

Some Hon. MEMBERS: Agreed.

The CHAIRMAN: Mr. MacDonald:

T. D. MacDonald, K.C., Superintendent of Bankruptcy, called:

The WITNESS: I am not sure just where I should start, Mr. Chairman. I do not want to waste your time going over matters you already know and on the other hand I don't want to omit background that you may expect to have from me. Would it be useful for me, Mr. Chairman, to outline briefly the purpose and scheme of the Act?

The CHAIRMAN: I would suggest, Mr. MacDonald, that you use your own good judgment; but do not miss anything that you think the committee should know about this bill.

The WITNESS: There is a very brief summary of the purposes of the Act, as referred to by the Minister on second reading. It will not take a moment and perhaps we might just run over it, and if I may go into that now it might perhaps assist you in dealing with the matter.

The purpose of this bill is to revise and consolidate the Bankruptcy Act.

The purpose of the Bankruptcy Act, generally speaking, is to provide a procedure whereby the assets of an insolvent debtor may be distributed equitably among his creditors and the debtor himself be released from further liability. There are exceptions and modifications which will be noted when we come to examine particular sections.

The Act applies to business and commercial ventures and to certain wage-earners. It does not provide for a compulsory bankruptcy in the case of a farmer but permits a voluntary bankruptcy except in the province of Quebec, an exception that is left out of the new Bill. It may be noted that other provisions relating to the insolvency and bankruptcy of farmers are contained in the Farmers' Creditors Arrangement Act. The machinery by means of which the Act functions consists chiefly of the following:

(1) The Bankruptcy Court, comprising in the first instance a judge and registrar, to whom the creditors may apply to have the debtor put into bankruptcy.

(2) The official receiver, to whom the debtor can go voluntarily for the purpose of putting himself into bankruptcy.

(3) The trustee who then takes over and realizes the assets and distributes the proceeds among the creditors.

(4) The superintendent who supervises the work of the trustees.

At this point I might also mention "proposal" which is an arrangement offered by an insolvent debtor to his creditors whereby he secures some postponement or reduction of his liabilities; and the "inspectors" who are the persons selected by the creditors from among themselves to work closely with the trustee. The exact conditions under which a debtor may be put or may go into bankruptcy as well as the details of the procedures followed, will be dealt with as we proceed to examine the bill section by section.

Now, so much for the purposes of the bill.

You may wish me to say just a word about the history of this Bill.

In 1946 a Bill—Bill A⁵—was introduced in the Senate. It contained a number of new principles which turned out to be very controversial. For example, it provided for the accounts of trustees to be passed by the Superintendent instead of the Court and for the trustee to be granted his final discharge by the Superintendent instead of the Court. It also brought the scheme of the Companies' Creditors Arrangement Act and the Winding-up Act under The Bankruptcy Act. That Bill died in the Senate after extensive committee hearings and no Bill was reintroduced until February 1949 when Bill N, the original of the Bill now before you, was introduced. It, too, was the subject of extensive hearings before the Banking and Commerce Committee of the Senate. The proceedings of that Committee are before you and will show you the different organizations and persons who made representations. That Bill died in the Committee when Parliament was dissolved this Spring.

This Fall, Bill N was reprinted and introduced in the Senate as Bill F and that, with the modifications made by the Senate, is the Bill now before you. Bill F, as introduced, incorporated some of the changes proposed to the Senate Committee this Spring. Some of the persons and organizations that appeared in the Spring appeared also in the Fall, and all the other submissions made to the Committee in the Spring were before it in the Fall in the form of a memorandum which indicated all such submissions and whether or not and why, they had been incorporated in Bill F. The Senate adopted a number of submissions and they are incorporated in the Bill before you. Notably they include certain submissions by the Canadian Bankers Association. If it will be of any assistance, tables can be placed before you showing

- (a) submissions made to the Senate Committee in the Spring and how dealt with;
- (b) a list of changes between Bill N and Bill F as introduced;
- (c) a list of changes made by the Senate.

Lists (a) and (b) have already been prepared and it will merely be a question of preparing more copies.

Mr. FLEMING: Excuse me a moment, Mr. Chairman; I was wondering if the memoranda to which Mr. MacDonald has referred just now are going to be placed on the record or circulated to the members; and I was wondering if they will be available this morning.

The CHAIRMAN: I would hope that they would be available for a later sitting. They are not available now but they will, I believe, be available tomorrow, or later.

The WITNESS: We will get them out just as soon as we possibly can.

Mr. FLEMING: You haven't got them with you at the moment?

The WITNESS: No.

The next thing you will want to know, I think, is: what are the principal changes between this bill and the present Act. I would describe the major differences between the bill before you now and the present Act as follows:

1. The bill provides a system of "summary" administration for small estates, whereby the formalities and expenses are reduced below those considered necessary to safeguard the administration of larger estates. The characteristics of this summary administration, which is an important matter and which perhaps I may refer to in a little detail, are contained in sections 26, subsection 6—on page 39 of the bill and in section 114 on page 91. The only significance of section 26 (6) is to define the kind of estate that may be summarily administered. It is an estate where in the opinion of the official receiver the realizable assets after deducting the claims of secured creditors will not exceed \$500.

Now, if from there you will go to section 114, you will see special provisions governing summary administration. First of all, the security to be deposited by the trustee under section 8 and that is not the general security which the trustee gives by way of a general bond, but the security that he gives in respect of a particular estate, is not required. Second, the trustee applies to the court to fix the date for the hearing of the application for the discharge of the bankrupt and includes notice thereof in the notice of the first meeting—that is to accelerate the final discharge. Third, notice of bankruptcy is published in the *Canada Gazette* in the prescribed form, but not in the local newspaper, unless deemed expedient by the trustee or ordered by the court. Fourth, notices and statements and other documents are sent by ordinary mail rather than by registered mail; and other than notices of the first meeting, are sent only to creditors who have proved claims amounting to \$25 or more. Fifth, the bankrupt may submit a proposal at the first meeting of the creditors; that provision is perhaps more of a suggestion than a substantive enactment. Sixth, there are no inspectors. The trustee in the absence of direction from the creditors may do all things that may ordinarily be done by a trustee with the permission of an inspector. Seventh, the examination of the bankrupt takes place at the first meeting. And the others are more or less incidental.

Well, that covers the leading characteristics of summary administration.

Now, with regard to the second important change in the Act, it is perhaps hard to compare it with the first, and to say that one is more important than the other, because they are entirely different in character. The second change is this:

2. The bill permits a debtor to offer, and the creditors to accept, a proposal or composition without the debtor going into or being put into bankruptcy. Something that was not possible before is made possible by the present Act. Under the Act as it now stands, any arrangement about a composition must follow upon a receiving order being made or an assignment being made. The procedure proposed in this bill is more convenient; it is cheaper and obviously more desirable for the debtor than was the previous situation where a composition had to be preceded by formal bankruptcy.

Mr. HUNTER: Pardon me, what section is that?

The WITNESS: That is section 27. This extends to individuals and corporations—a procedure somewhat similar in principle to that now available to corporations under the Companies' Creditors Arrangement Act except that proposals under the Bankruptcy Act are supervised in much the same way as the administration of estates under the Bankruptcy Act are supervised. It is a procedure that is subject to the supervision of the superintendent. The provisions relating to a proposal will be found beginning on page 30 with section 27. As you will see by subsection (1), a proposal may be made by (a) an insolvent person, and (b) a bankrupt. An insolvent person is defined in section 2 (j); and the

leading consideration there is that he is unable to meet his liabilities and that they amount to \$1,000. Section 38, subsection (2), is important in this regard because it permits the court in a proper case to take proceedings out from under the Bankruptcy Act and to place them under the Companies' Creditors Arrangement Act, where for example it appears from their complicated nature, as where the interests of bondholders are affected, that that is a more convenient way to deal with the proposal. That finishes the matter of proposals.

3. Now, the third thing is that the bill makes an effort to clarify at least to some extent—and I do think to a very large extent—the vexed questions of priorities to be accorded different classes of claims in distributing a debtor's assets. This is something which has always caused a great deal of worry and a great deal of confusion and a great deal of difficulty both to the trustee and to the court and to the creditors, in the distribution of the assets of the estate as dividends. If you will refer to section 95 (page 63) you will see that the priorities are all set out consecutively in one section. In the present Act they are to be found in different sections. The sections sometimes show no exact relationship, the one with the other, and it sometimes proves very confusing and difficult to follow. In the present Act the Crown instead of being listed in its place in the priorities comes under a section found later in the Act, and you have to read all through the Act to find just what the rights of the Crown in a matter of this kind are. What we try to do in the amendment now before you is to list the priorities consecutively and group them all in section 95. Among the things which this new section does do, substantially, besides arranging and settling things, is to state definitely where the Crown fits in the case where it is an unsecured creditor. That will be found in section 95, subsection (1), paragraph (j). You will see that the Crown as an unsecured creditor comes immediately after the preferred creditors and before any of the ordinary unsecured unpreferred creditors.

So much for priorities.

4. Then there is the matter of increased creditor control which I will touch on lightly at the moment. It is probably a less important factor than the one which I have just mentioned. It is to be found in a considerable number of small changes that occur throughout many different sections of the Act, and which have the general tendency of settling more control upon the creditors over the trustee and the administration of the estate.

5. And then I think I should perhaps touch on a number of smaller things that will be of interest, of particular interest to you, but which have not been classified in the four or five most important changes.

First of all, the powers of supervision of the superintendent have been tightened up to a certain degree, as you will see when we come to a consideration of section 3 of the bill; chiefly, perhaps, this is a clarifying and confirming of powers of inspection and examination, some of which might be in doubt under the present Act. As appears from section 17, the remuneration of trustees when not expressly set by the creditors has been increased from 5 per cent to $7\frac{1}{2}$ per cent.

Mr. FOURNIER: Is that the maximum?

The WITNESS: No, it is not the maximum. It may be increased by the Court or the creditors.

For instance, in subsection 5 of section 17—I am reading at page 21 of the bill—

(5) On application by the trustee, a creditor or the debtor and upon notice to such parties as the court may direct, the court may make an order increasing or reducing the remuneration.

That would be over or under the seven and one-half per cent. The seven and one-half per cent is the amount which, if no other arrangement is made for remuneration by the creditors, will be automatically inserted by the trustee in his accounts.

The amount of debts required to authorize an assignment or a petition is increased from \$500 to \$1,000, as appears in section 21, subsection (1) relating to a petition, and in section 2 (j). The minimum annual salary required before a wage earner can be petitioned against—

By the Chairman:

Q. Would you mind letting me have that last clause number again, please? —A. Yes. It is section 2 (j), and section 21 (1); and as appears in section 25 the minimum salary for a wage-earner before he can be proceeded against and put into bankruptcy by his creditors is raised from \$1,500 to \$2,500. That does not affect the circumstances in which he can go into bankruptcy voluntarily, which would throw you back to the ordinary provisions of \$1,000 debts.

By Mr. Isnor:

Q. Before you leave clause 25, is there any mention made of fishing as there is in the case of farming?—A. No, Mr. Isnor.

Q. Would you mind considering it?—A. I would be glad to make a note of it. Finally, the office of custodian is abolished, as will appear from section 21(9). That is a change which is perhaps more apparent than real. It means in practice that you drop the name of custodian which applied until the time of the first meeting, and you call the trustee a trustee for the whole time. I think Mr. Chairman, that this gives the salient points of the bill. Finally, there is the rearrangement and the redrafting that is of course to be expected in any consolidation of this nature.

The CHAIRMAN: Thank you, Mr. MacDonald. I assume that the correct procedure would be for the members of the committee to have an opportunity to question Mr. MacDonald on his statement. I would like to announce at this time, just in case some of the members want to make plans, I am suggesting that we shall adjourn the meeting at 12.30 in order to permit a meeting of the steering committee at 12.30. The committee will meet again today at 3.30 o'clock this afternoon and we will meet then in room 429 where we have more space. That room is not available this morning. Now, the witness is yours.

Mr. LESAGE: Mr. Chairman, the witness has referred to specific clauses of the bill. I wonder if, instead of questioning the witness, we should not wait until we have studied the specific clauses concerned? Otherwise, since the members have had little opportunity to read and peruse the bill, I am afraid what would happen would be that we would make little progress. The great amount of discussion, which took place in the Senate, I think, might dispose of many of the questions which would be asked here.

The CHAIRMAN: I entirely agree. However, I felt that the members of the committee might have general questions to ask the witness, and that they should have an opportunity now of asking them.

Mr. LESAGE: Oh yes, general questions.

By Mr. Isnor:

Q. I have a general question. Where did the opposition to bill A5 which was withdrawn originate and what was the nature of that opposition? —A. I cannot give you that information offhand because I did not go fully into the sources of the opposition to bill A5. But I believe as far as the supervision of the superintendent is concerned, a large amount of the opposition came from many sources including the trustees.

Q. When you speak of the "trustees" you refer to an organized group representing the trustees, is that it?—A. The opposition from the trustees, I understand, was not a general or organized opposition. I merely mention trustees as included among the people who made representations to the contrary. If you are interested in perusing it, I can dig it out for you. I can get you the actual names of the people who did make representations against the bill.

Q. I do not think it is very important. May I turn now to something definite in regard to section 25?—A. I think I could give you a little more information about the opposition to the Companies' Creditors Arrangement Act, if you wish to have it.

The CHAIRMAN: Yes. I think your question on section 25 would be obviously general in character, Mr. Isnor, and I think it is quite proper to ask it right now.

Mr. ISNOR: Thank you.

The WITNESS: The proposal to abrogate the above Act, the Companies' Creditors Arrangement Act, which was implied in the provisions of the Bankruptcy Act as contained in bill A5 was strenuously opposed by the following when they came before the committee of the Senate on the Bankruptcy Bill:

Mr. Terence Sheard representing the Canadian Mortgage and Investments Association.

J. M. Bullen, K.C. representing the Canadian Creditman's Trust Association Limited.

R. O. Daly, K.C. representing the Investment Dealers Association of Canada.

A. C. Cryslor, Legal Secretary of the Board of Trade of the city of Toronto.

I am informed by this note—of course, I was not there at that time—that some of the arguments against the measures being placed in the Act proceeded along the lines of this argument: that the Companies' Creditors Arrangement Act is primarily concerned with the rights of investors such as bond and debenture holders described by the Act as secured creditors, while the Bankruptcy Act is concerned with the rights of ordinary creditors and that the two should not be intermingled.

By Mr. Isnor:

Q. I think that clears up the question I had in mind. Now would you turn to section 25 of the new bill F at page 28 which refers:

...to persons engaged solely in farming...

I would like to see inserted there the words: "in fishing". I consider that fishermen should be in the same preferred position as farmers in their relation to that particular section.—A. That comes to me as a new suggestion, Sir, and I have no comment that I could usefully make right now.

The CHAIRMAN: You can make a study of it and when the section is read, you will then be in a position to answer.

By Mr. Stewart:

Q. I wonder if the witness can tell us if the superintendent is satisfied with the Act as it stands, or would he like to have some additional changes made?—A. My answer is that I am, as presently advised, satisfied with the bill as it now stands.

Mr. FLEMING: I have a couple of general questions to ask, if Mr. Stewart is finished.

Mr. STEWART: Yes.

By Mr. Fleming:

Q. In the first place, I take it that this revision was a departmental revision. Am I right?—A. I think that is a proper description of it.

Q. In other words, it is a revision which has taken time and which represents the experience of the department, as well as representations made to the department from a number of sources, rather than pressure from any particular quarter of the public?—A. That is quite true. It was studied. It was a bill which evolved through long study, as I understand it by succeeding superintendents, including Mr. W. J. Reilley, K.C.

Q. And with that in view, can you say that there is any special urgency attached to the enactment of the bill so far as public interest is concerned. I mean an urgency, such as a matter of two weeks' time or six months?—A. Well, no. I cannot say; I cannot point to anything that is going to suffer specifically if this Act is not changed within the next six months. I cannot point to anything of an emergency nature about it. I mean emergency in the sense that we ordinarily speak of emergency legislation. I would not attempt to describe it as such. But we are coming to a period, in fact we are in a period of increasing bankruptcies. I can get for you this afternoon, if you want to have them, the specific figures showing the increase from 1946. The figure has grown considerably.

By Mr. Isnor:

Q. Would it be due to mushroom growth?—A. I would say the rate of increase is somewhere between 200 and 300 per cent., subject to verification this afternoon.

By Mr. Fraser:

Q. Have you got the bankruptcy figures for the United States showing their increase during the last year?—A. No, I have not got them here.

Q. I think it would be as well, when we get them for Canada, to get them for the United States. They may be obtained, I think, from the statistical department. They would show the trend for the last two years.

MR. FLEMING: I have not quite finished my general questions, Mr. Chairman.

THE CHAIRMAN: Mr. Fleming now has the floor and Mr. Fournier will be next.

By Mr. Lesage:

Q. After the question of urgency, would it not be well if we discussed it now, unless the witness has not finished his answer?—A. I was saying that we are in a period of very increasing bankruptcies, a period when the Act is of increasing importance. And from that standpoint, and having regard to changes in the bill which I outlined a few minutes ago, I would say that it is urgent legislation, even if it cannot be classed as emergency legislation.

By Mr. Fleming:

Q. But a few minutes ago you said it was not urgent. My question asked: if it is urgent in relation to public interest? And you said it was not. I said I was speaking in terms of two weeks as against six months. I understand that was your position.

MR. LESAGE: The witness said there was no emergency with regard to further revision. That would be different.

MR. FOURNIER: It is a matter of importance, I believe.

By Mr. Richard (Gloucester):

Q. If we feel that these changes are necessary, is there any reason for delay?—A. None.

Mr. LESAGE: A lot of people, including many members of the Bar have asked that they be enacted as soon as possible. Then we have the reasons given by the witness and the simplification of the procedure. They all say it is a very good bill.

By Mr. Benidickson:

Q. Were you here in 1946 when the earlier bill was proposed?—A. No, I was not.

By Mr. Laing:

Q. What would be gained by leaving the matter over? This bill seems to be the result of a great number of submissions made by a large number of organizations. Is there anything that could be gained by holding further hearings? What could be gained by generally setting the matter back by six months? Is there anything to be gained by doing that?—A. I can see nothing to be gained by setting the matter over for six months. I would like very strongly to have the advantage, since you ask me for my reaction, of the present changes, as soon as possible.

By Mr. Fleming:

Q. I have not quite finished my question. The bill in its present form before us now represents not only the original draft which was submitted by the department to the Senate, but also the considered review, the considered judgment of the Senate in the light of a great many representations which were made, some of them orally, to the Senate Banking and Commerce Committee. Some representations were made in writtend form too. Is that correct?—A. Yes.

Q. And in some cases effect was given to changes or revisions requested by those who appeared; while in many other cases proposed changes or present changes were adjusted?—A. Yes.

Q. There were representations made. For instance, the committee heard from Mr. Justice Urquhart, the judge who presides in bankruptcy in the Supreme Court of Ontario. Representations were made by the Canadian Manufacturers' Association; the Montreal Board of Trade; the Toronto Board of Trade; your predecessor as superintendent in bankruptcy; the Canadian Bankers' Association; the Canadian Credit Men's Trust Association Limited; the National Committee of Canadian Commercial Travellers; the Law Society of Upper Canada; and by a large number of others. Is it not a fact that in practically every case—perhaps I should say in most cases—the bill as it now stands represents the acceptance of some of the changes requested by those who appeared, and a rejection of others, after hearing?—A. Oh yes, definitely. The nature of those changes, the ones that were proposed, and an indication of whether or not they were embodied in the reprint (Bill F) together with a short indication of the reason is contained in the memorandum which you now have, Mr. Fleming. I said that I would try to get more copies later for the rest of the committee members.

By Mr. Lesage:

Q. It is called "Compendium".—A. That is correct. And an examination of the changes in that compendium, as it is called, will give you an idea of the nature of the changes that were suggested as well as the treatment that was given.

The CHAIRMAN: Are you through now, Mr. Fleming?

Mr. FLEMING: Yes.

The CHAIRMAN: Mr. Fournier is next. But before calling on him, I would like to make one suggestion. If the members would refer to page 10 of volume I of the Minutes of the Standing Committee on Banking and Commerce in the Senate, the meeting held on the 10th of March, they will find a statement reading as follows:

In 1948 according to statistics prepared by Dun & Bradstreet of Canada, Limited, the number of commercial failures in Canada was 493, with liabilities \$11,755,000, the highest amount since 1935.

Mr. QUELCH: Are we going to leave that point?

The CHAIRMAN: Mr. Fournier has been trying to get my eye, so I shall call on him next. But we won't leave that point until every member is content.

By Mr. Fournier:

Q. You stated a moment ago, Mr. MacDonald, that the number of bankruptcies in Canada has increased. Would it be possible to know if those concerns going into bankruptcy are new business or old business? It might not be surprising to find that some businesses which were organized during the war would go into bankruptcy; once the war was over it would seem rather normal that some of them might go into bankruptcy?—A. Yes. It would be possible to get that information for you, sir, and I am glad that you raised the point because it reminds me that I left unfinished what I started to say about the increased number of bankruptcies. I feel that those figures must be read with a great deal of care and with a considerable amount of reservation because of a number of factors. I won't attempt to exhaust them, but one is the factor upon which you have just put your finger, that of new businesses.

Another factor would be that having regard to the fact that many bankruptcies might be called marginal businesses, that is, businesses of marginal success; a very small falling off in average prosperity, in commercial prosperity, might mean a very large increase in the number of bankruptcies. So in regarding the figures of increased bankruptcies as an index of the state of commercial affairs you would have to be very, very careful. One thing you would have to do would be to segregate and to see what proportion of the bankruptcies were, let us say, wage earner bankruptcies; because, while I suppose they would have a certain bearing as an index of prosperity or otherwise, they certainly would not have as important a bearing as commercial failures would have.

By Mr. Benidickson:

Q. There would have to be some comparison between the volume, let us say, in 1935, as compared with the volume in 1948, when a reference is made back to 1935 as being the last precedent for that size?—A. Yes, sir.

By Mr. Maltais:

Q. Do you think this information could be given by provinces?—A. Yes, it could.

Mr. FOURNIER: When do you think we will receive the information?

Mr. ISNOR: They would likely procure their information from Dun & Bradstreet.

The WITNESS: Oh, no. We obtain our information direct.

By Mr. Isnor:

Q. What do you mean by "direct"?—A. By statistics in our own office.

Q. I was referring to information that you would procure from the provinces.
—A. That is in our own office. We are the direct source of such information, really. The total number of bankruptcies I find reported in 1946 was 269.

By Mr. Fournier:

Q. What is that number again, please?—A. 269.

By Mr. Maltais:

Q. That is for the whole of Canada?—A. For the whole of Canada. And I can give you them by provinces. I have the same information here for 1947 and 1948; and I also have it for the first nine months of 1949.

By Mr. Isnor:

Q. Would you let us have it for 1947, 1948, and 1949?—A. In 1946 there were 269. In 1947 there were 509. In 1948 there were 799. And to date—

By Mr. Fulford:

Q. You mean for the first nine months up to date in 1949?—A. No, it is up to the 23rd of November, 1949, and the number is 868. I would like to repeat the word of caution I mentioned a moment ago with respect to how those figures are to be interpreted. I would not like to see them taken as *prima facie* evidence of anything.

By the Chairman:

Q. I take it, Mr. MacDonald, that what you are trying to tell the committee is that notwithstanding the large volume in number, this number does not necessarily indicate that the economic level of Canada is heavily deteriorating.—
A. That is about the size of it, Mr. Chairman. I am not competent to speak as to the economic life of Canada, and I do not want these figures to be misinterpreted.

By Mr. Richard (Gloucester):

Q. The liabilities arising, however, are enlarged progressively about the same percentage as the number of bankruptcy cases?—A. I would not like to answer that question offhand. I would like to give it some little inquiry.

By Mr. Quelch:

Q. I was wondering if Mr. MacDonald could say from the information at his disposal whether he considers it a temporary situation? Does he consider that the increase in bankruptcies will continue? In other words, is it largely due to the depression caused by the transition from war to peace, as well as the dislocation in international trade taking place at the present time?—A. Any expression of thought on my part would be purely personal and not very well grounded so I would not care to express an opinion. I am afraid, as far as I am concerned, that the figures will just have to speak for themselves. I am sorry, but I do not feel qualified to answer.

Q. The reason it is considered vital to go ahead with the bill is not that you consider there is going to be an increase in bankruptcies above the present scale?—A. Well, sir, the trend is indicated by the figures that I have given you. You will see that there were 269 in 1946; 509 in 1947; 799 in 1948; and 868 in 1949 to date. So the number is increasing and there is no reason to believe that

the upward line is going to stop right here. I would not think that I am unduly trying to predict when I say that I should expect the increase to continue to some extent into the future.

Mr. FOURNIER: Could you give us the figures as to failures of all kinds in Canada? That is not shown here, is it?

An hon. MEMBER: That gives you the commercial failures in Canada.

The CHAIRMAN: Well, that one item there, as I understand it, relates strictly to commercial failures.

Mr. FOURNIER: Thank you. That is what I wanted to get at.

Mr. GOUR: I would like to ask Mr. MacDonald if it is not a fact that in a great many cases these failures represent the failure of persons who have, let us say, gone into business without any practical experience. Are they not people who have gone into a manufacturing business—let us say something like a sash and door factory—where they have had a little capital and have put it into a business and just taken advantage of high prices and good times, and not having had any business experience, since the boom has slackened off, find themselves in financial difficulties and they have had to fold up; isn't that fact largely the explanation? I am thinking particularly of that period of activity starting, I think, back in 1935 and continuing on during the war period when there were a lot of people who went into these small businesses of one kind or another, taking advantage of generally prosperous conditions, but who lately, and I believe in increasing numbers, are finding it impossible to carry on. Isn't that the fact?

The WITNESS: That may be, in part, the explanation.

Mr. MALTAIS: Do you happen to know what happens to people going into bankruptcy after the bankruptcy proceedings are over? Can they return to some other business? Can they continue a small business? Can they go back to the business they formerly had? Or do they just give up?

The WITNESS: To answer your question properly would be a matter of proportions. Some go back into the same business and some go into other businesses; and some do not go back into business at all. But to give you a valuable answer I would have to have more information than I have right now on the actual proportions.

The CHAIRMAN: Gentlemen, it is now 12.30. Shall we adjourn until 3.30; and, would the steering committee please remain, as well as the Superintendent of Bankruptcy.

AFTERNOON SESSION

—The committee resumed at 3.30 p.m.

T. D. MacDonald, K.C., Superintendent of Bankruptcy, recalled:

The CHAIRMAN: Gentlemen, we have a quorum. Your steering committee met at 12.30 this morning and I was instructed to send a letter to every association and everyone who had made any representation, oral or written, to the 1949 Senate committee. I have drafted this letter which I will read:

The new Bankruptcy Bill, which was initiated in the Senate, received its second reading in the House of Commons and was referred to our Banking and Commerce Committee this week. All of the evidence taken by the Banking and Commerce Committee of the Senate, and the written

representations made to that committee, are in our hands, but since you have taken an interest in this bill, I thought best to write you so that in the event there is any further submission which you wish to make, either by way of written statement or oral evidence, you will have an opportunity to do so.

Since the session will end soon, would you please advise me by wire if you would like to present any additional oral evidence, and as to any additional written material, would you please see that this is mailed immediately to T. L. McEvoy, Clerk of Committee, House of Commons, Ottawa.

Yours sincerely,

HUGHES CLEAVER,
*Chairman, Banking and Commerce
Committee.*

And the understanding is that in the meantime the committee recommends that we hold one meeting daily other than today. A meeting today has been called for this afternoon so we will meet this afternoon, and we will start going over the bill clause by clause. I would suggest that the second section should be adopted, subject to the reservation that additional subsections may be added to it as may be found necessary in a study of future sections. Is that carried?

Carried.

Mr. FLEMING: I take it that we are now only going over this in a preliminary way, that we will not now adopt or pass any clause finally, and that the clause will remain open for further consideration at a later stage.

The CHAIRMAN: I would suggest that clause should be carried, but subject to the reservation that if any member of the committee wishes to refer back we will refer back.

Mr. FLEMING: I do not know whether we are ready for this statement at the moment. There may be other matters which it would be desirable to take into consideration. I did not understand that you proposed to adopt that procedure, Mr. Chairman.

The CHAIRMAN: I would say so, with the firm reservation that if any member of the committee wants to refer back to any clause he will be permitted to do so, and my suggestion was that we would simply cover clauses of the bill now that are not subject to any question whatever.

Mr. FLEMING: So that if any member wants to refer back, it will be open for further discussion?

The CHAIRMAN: If you come to any clause about which there is any doubt it will be allowed to stand. We are simply making the best of the situation in which we find ourselves.

Shall clause 2 carry?

Carried.

Shall clause 3 carry?

Carried.

Mr. MACDONNELL: How in the world can we pass clause 2?

The CHAIRMAN: I called clause 2 and suggested that it should carry, subject to any additions which might become necessary as you study the future sections.

Mr. MACDONNELL: For instance, is there any change in the situation with regard to superintendents?

The CHAIRMAN: Those changes were all indicated by Mr. MacDonald in his submission. But I rather suggest that a study of this section now would not be of very much use to the committee. It relates to subsequent sections, you see, and that is why I suggested that it should only be carried conditionally.

Clause 3 is purely formal. We had better deal with subsections. Shall subsection 1 carry?

Carried.

Shall subsection 2 carry?

Carried.

Shall subsection 3 carry? Perhaps we should take a little time on that.

Mr. LESAGE: Yes, the Canadian Bankers' Association objected to that.

The CHAIRMAN: I think it will be helpful, Mr. MacDonald, if you would outline the objections which have been made. I do not think we should hurry consideration of this subsection 3.

The WITNESS: First, as was suggested by the Canadian Bar Association, this is a general observation on section 3, that the Superintendent be required to investigate the conduct of debtors before bankruptcy. That was not adopted by the Senate.

Mr. LESAGE: That is right. What are the considerations?

The CHAIRMAN: What do you do in that regard?

The WITNESS: Mr. Chairman, we have here now copies of the compendium to which I referred, and also copies of the other list showing the differences between the two bills.

Mr. LESAGE: Could you tell me what the considerations are in the examination of a debtor before he is put into bankruptcy? I understand that that is covered by other clauses of the Bill, but it is up to the creditors, especially to the inspectors. They decide the question anyway. That is in operation at the present time.

The WITNESS: No, not at the present time.

Mr. LESAGE: That would be taking away from the creditors some of the powers they must have.

The WITNESS: It will be giving to the superintendent an entirely new function as far as this Bill is concerned.

Mr. LESAGE: I do not see how it could work.

By the Chairman:

Q. What is your policy, Mr. MacDonald, in regard to the qualifications that are required of a trustee to have a licence granted to him?—A. It would depend somewhat on the district in which he finds himself or in which we find him; the other persons who are offering for such an appointment, and such factors as that. We try to get as much experience in business as possible. We look for experience of an accounting nature. And there are certain physical things required, such as office accommodation, safe accommodation, minor matters like that.

Q. How many trustees do you license in different localities? What is your practice in that regard?—A. The practice in that regard has varied from time to time. Up until a few years ago, one or two years, the policy tended in the direction of restricting the appointment of trustees as much as possible. Following that there was some change in the policy and it tended in the other direction, in the direction of saying, as long as a trustee has the necessary qualifications the fact that there is not a great deal of business in his district is his concern. During the last few months we have tended more to the first mentioned policy of having considerable regard to the amount of business to be anticipated in a district from the experience in connection with past cases and the number of trustees already located there. In mentioning the qualifications of a trustee I omitted some obvious ones like financial responsibility and so on.

By Mr. Macdonnell:

Q. Can you be more specific? It seems to me the qualifications of a trustee are one of the most important things in this whole Bill.—A. Oh yes.

Q. And when you refer to financial responsibility, do you have in mind there that he must not be a bankrupt himself?—A. Yes, that he is not a bankrupt himself. A statement is required of his assets and liabilities to see that he is not in hard circumstances, and he is required to give a certain number of references.

Q. Did you say anything as to his professional qualifications? Did I miss that? I did not carry that in my mind.—A. I said we looked for experience, sir, in a business way; and we look for experience in or knowledge along the lines of accounting.

Q. When you say you look for it, could you be more specific? I think that may be of great importance.—A. The weight that is given to that depends considerably on the district concerned and the number of people who are looking for licences in that district. I might perhaps put it this way: If it is a district where there is no trustee and we think it is desirable that there should be a trustee, then not so much insistence would be put upon those qualifications as in a district where the number of trustees is up to about the line that we think is the saturation point.

Mr. STEWART: How do you pass upon his qualifications as an accountant? Do you take somebody's word for it; do you make enquiries; do you take the man's own word for it; how do you do it?

The WITNESS: In a great number of cases he will be a chartered or a public accountant, in other cases we inquire into his—well, he makes a statement as to what his experience and what his qualifications are in that regard, and then that is tested to a certain extent in the matter of his references

Mr. BELZILE: He also has to furnish a general bond?

The WITNESS: He has to furnish a general bond and a special one in respect of each estate.

Mr. SMITH (*Moose Mountain*): How much is the general bond?

The WITNESS: The general bond differs depending upon a number of things; for instance, depending upon the population of the district and so on, in an endeavour to bring it into line with the amount of business that he may have to handle. It has just been pointed out to me, Mr. Chairman, that in the Province of Quebec the number of trustees who would be public accountants of one type or another would be about 90 per cent.

Mr. STEWART: In a city like Winnipeg which has a population of over 600,000 how would you decide when the saturation point had been reached?

The WITNESS: I believe, sir, that in recent months there was one application from the City of Winnipeg. I am speaking from memory now and I am subject to correction, but I think I am correct. We have looked at the list of trustees for Winnipeg and looked at the number of estates that they have handled over the past year or so, and my impression is that we came to the conclusion that having regard to those factors there was not a present need for any additional trustees.

The CHAIRMAN: Do I take it, Mr. MacDonald, from your evidence, that in regard to the appointment of new trustees you consider the present condition; that is, you check up to find out how adequately the area is already served. If it is well served you would put your qualifications high enough that you would be improving the service if you granted a new licence, whereas if you felt that it was not adequately served you would be inclined to receive applications from persons having lesser qualifications.

The WITNESS: I think that is a reasonable statement of the facts.

Mr. STEWART: Have you had any trouble with trustees within the last two years?

The WITNESS: Oh, over the last two years there have been a small number of investigations. I would say that the number would not be more than five during that time and none of those investigations have resulted in the removal of any trustee.

The CHAIRMAN: Are there any further question on subsection 3?

Mr. ASHBOURNE: Mr. Chairman, may I ask if there have been any applications for licences as trustees from the tenth province, Newfoundland; and, if so, how many?

The WITNESS: There have been no applications for licences from the tenth province of Newfoundland, sir. The amount of prospective business from that province has not been such as to bring it yet particularly to my attention; and the Act is among those still to be proclaimed in force there.

Mr. ASHBOURNE: Thank you.

The CHAIRMAN: Shall subsection 3 carry?

Carried.

Subsections 4, 5, 6, 7, 8 and 9 are of a character that they can perhaps pass. They permit the superintendent to intervene. Mr. MacDonald, are there any powers or any functions which you think would be helpful for you to have that the bill does not give you in these subsections?

The WITNESS: No, not at the present time.

The CHAIRMAN: Are there any questions on these subsections?

By Mr. Belzile:

Q. I understand that the practice provided for in this section has been followed even before this, although it was not in the old law?—A. Some of them, yes.

The CHAIRMAN: Some of them are new.

By Mr. Belzile:

Q. But they were in practice by the superintendent before the passing of this— —A. (g) is a very good example of that:

(g) Examine trustees' accounts of receipts and disbursements and final statements.

This is a new paragraph creating express authority for the examination of trustees' statements, to conform with what is in effect.

By Mr. Macdonnell:

Q. But is it not an instruction to the superintendent?

The CHAIRMAN: The witness is referring back to subsection 3 (g).

Mr. MACDONNELL: Should not that read "the superintendent?"

The CHAIRMAN: Yes. It is mandatory.

The WITNESS: Yes. "Authority" is, perhaps, not the exact term for it. It could have read better. This is a new paragraph creating express obligation.

By Mr. Macdonnell:

Q. Does not that raise the question? Is it your practice now under (g) to examine all trustee accounts?—A. Yes, sir.

Q. So that just fits your practice, does it not?—A. Yes, sir.

The CHAIRMAN: Shall subsections four to ten carry?
Carried.

Clause 4, official receiver.

Mr. LAING: Did the provinces formerly constitute districts?

Mr. LESAGE: They are divided.

Mr. LAING: Some of them are divided?

Mr. LESAGE: Yes, in Quebec and Ontario.

Mr. FULFORD: Depending on the size of the province and the population.

The WITNESS: The only change in subsection 1 is the formal change in the first four words.

The CHAIRMAN: Shall clause 4 carry?

By Mr. Macdonnell:

Q. Are the official receivers in fact just intermediaries between the superintendent and the trustees? Isn't that what they are in fact?

Mr. LESAGE: They are something like the clerks of courts; they are in fact clerks of courts of bankruptcy.

The WITNESS: The official receiver is the man who receives an assignment. In the case of a petition by the creditors to put the debtor into bankruptcy, that is dealt with by the court proper, the judge or registrar; but in the case of an assignment, he goes to the official receiver and the official receiver takes the assignment and the official receiver conducts the examination of the debtor.

The CHAIRMAN: Are there any further questions on clause 4? Shall clause four carry?

Carried.

Now, clause 5.

By Mr. Stewart:

Q. On line 27, page 8, it reads:

(2) The Superintendent shall make an investigation into the character and qualifications of any applicant for licence...

How do you go about making that examination?—A. Are you referring to the word "character"?

Q. Yes.—A.—Well, in the first place, the candidate himself sends in certain reference names and we write to each of them. And in addition, one of them must include a local bank manager. And in addition to that we make certain independent inquiries; for instance, from a person who is, let us say, in a position to give us some information, such as the registrar or the official receiver or some other person in a public capacity, either connected or sometimes not connected with bankruptcy administration.

Q. There is no screening though?—A. There is no screening apart from that.

The CHAIRMAN: Shall clause 5 carry?

Carried.

Mr. LESAGE: I understand the clause myself, but I have received representation from trustees concerning the amount of the fee they have to pay.

The CHAIRMAN: You mean the amount of the bond which they are required to file.

Mr. LESAGE: No, not the bond, the fee. It varies with the population of the city or area where they practise.

The WITNESS: That is correct.

By Mr. Lesage:

Q. And in some of the larger cities they pay from \$50 down to \$10 according to the population—A. That \$50 is the original.

Q. And it is renewed \$25 to \$5.00?—A. Yes.

Q. And some trustees who are in the larger cities contend that although they are more numerous, they have no more business than in smaller cities where there is only one, and that it is a discrimination against them. I am only telling you about this so that you may have an opportunity to study the matter.—A. Surely.

Mr. BENNETT: How much is the bond that the trustee has to put up?

Mr. LESAGE: It varies from \$10,000 to \$2,000 according to the population. Clause 5. Carried.

The CHAIRMAN: Clause 6 "Appointment of Trustee by creditors". Shall clause 6 carry?

Carried.

Clause 7 is purely formal. Does clause 7 carry?

Carried.

Clause 8 "Security to be furnished by trustee." As to this clause, the first suggestion of the Toronto Board of Trade was adopted. The second suggestion was not adopted.

Mr. BELZILE: Could we not carry this clause subject to the reservation made in clause 2 because it relates to the old Act itself?

The CHAIRMAN: What is the wish of the committee? Shall clause 8 carry? Carried.

Shall clause 9 carry: "Trustee shall insure property"?

Mr. STEWART: In subsection 3 line 15:

The trustee shall deposit in a chartered bank, in a separate trust account in the name of the estate to which they belong, all monies.....

There is nothing to stipulate when these deposits shall be made. Does the superintendent think it would be advisable that the wording should read: "he shall deposit as soon as may be." or words to that effect?

The CHAIRMAN: Or "forthwith"?

By Mr. Stewart:

Q. I think that the deposits should be placed in the bank on the day they are received, as far as possible.—A. I would very readily accede to that suggestion.

Mr. RILEY: But if it is only a small amount of, let us say, \$3 to \$5?

Mr. LESAGE: There is always the petty cash.

Mr. STEWART: I am not talking about petty cash. I believe these monies should be deposited in the bank daily. I see no reason why it should not be done. Moreover, it is only good business practice.

Mr. LESAGE: But suppose it is only \$3 or \$5. and the trustee does not receive anything more for three or four weeks. He will not be doing that?

Mr. DUMAS: What would be the benefit?

Mr. STEWART: I maintain that it is good business practice and I think it would be of assistance to the superintendent in that he may have to check up afterwards. I believe it would help him to know that the money has been received and has been deposited. Moreover, should the bank not be open on a

given day, the money should be deposited upon the next banking day. I have come across occasions in my own experience where the money has not been deposited as quickly as it should have been. Allowance is made for petty cash funds and also for payment by cheque in the Act.

The CHAIRMAN: I would think that a trustee who has any volume of business at all would be making almost daily deposits in the ordinary course of his business, and that it would not be any great hardship upon him to require him to deposit forthwith.

Mr. DUMAS: This suggestion would make him deposit reasonably soon.

By Mr. Stewart:

Q. It is not a point I am stressing but merely one I raised, for the consideration of the committee.

The CHAIRMAN: What do you think?

The WITNESS: Well, I see no objection whatever to a word going in there which would enjoin upon the trustee a prompt compliance with the section and at the same time leave him with the reasonable flexibility that he should have. I should perhaps add, Mr. Stewart, that we have not up to date had any difficulty on that point. But I recognize that is not an answer. It is never too late for the difficulty to arise.

By Mr. Stewart:

Q. The horses are still in the stable.—A. Yes.

The CHAIRMAN: What is the wish of the committee?

Mr. STEWART: The phrase "as soon as may be" is used in another part of the Act. Perhaps that phrase would be appropriate here.

Mr. RILEY: The word "promptly" is sufficiently broad, is it not?

Mr. LAING: Should we not say that it must be done within a certain number of days after receipt, in order to be specific?

Mr. DUMAS: We might use the wording which is used in the Interpretation Act.

The CHAIRMAN: What do you think about it, Mr. Macdonnell? You have had considerable experience in these matters?

Mr. MACDONNELL: It seems to me that to put in rigid requirements would be awkward. You might have someone in the country who would not find it convenient to deposit daily. I would not change it.

The WITNESS: Too rigid a provision would invite contravention.

The CHAIRMAN: Shall clause 9 carry?

Carried.

Shall clause 10 carry? "Powers exercisable by trustee with permission of inspectors.?"

By Mr. Macdonnell:

Q. I would like to ask the witness this question: In clause 10, subsection (a) you say:

(a) sell or otherwise dispose of for such price or other consideration as the inspectors may approve all or any part of the property of the bankrupt, including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt, by tender, public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;

Now "transfer the whole thereof". What is the difference? Why do you differentiate between transferring, itself? Have you got to transfer the whole thing? Do you mean: sell in parcels?

Mr. DUMAS: Could be!

The WITNESS: I think it is one of the cases where the draftsman has possibly gone beyond what was necessary in an effort to cover all the cases. As to the words "or otherwise dispose of", they were inserted in the Senate after the bill was introduced.

Mr. MACDONNELL: Does it relate back to "otherwise dispose of"?

Mr. LESAGE: Dispose of for such price and transfer. That is what I believe. There are two main sentences: First, sell or otherwise dispose of for such price, such and such a thing; and then transfer.

Mr. MACDONNELL: I still do not quite see the point. You say he may sell or otherwise for such a price or other consideration as the inspectors may approve all or any part of the property of the bankrupt, including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt, by tender, public auction or private contract. . . ." That seems to be very clear down to theré. Then you go on and say:

. . . with power to transfer the whole thereof to any person or company, or to sell the same in parcels;

By Mr. Lesage:

Q. That is what I do not understand. I do not see why it is there.—A. At first blush there seems to be a redundancy there. I believe that the words: "to transfer the whole thereof to any person or company" were probably intended to round-out the idea of a sale. They probably go no further than the word "sell" itself implies. As to "sell the same in parcels," I am afraid I cannot give you a good reason for these words, right at the moment.

Mr. BELZILE: Suppose a man has ten houses. Could he not proceed to sell each one separately?

The CHAIRMAN: Yes. He is given that power in the first line.

Mr. DUMAS: We are only quibbling about the use of the word "transfer" and the word "sell".

Mr. MACDONNELL: Yes, and isn't that just what lawyers will do in court?

Mr. DUMAS: I do not know enough about lawyers to answer that one.

Mr. LESAGE: I should say from the word "with" on there is no use for it.

Mr. MACDONNELL: I quite agree with you.

Mr. LESAGE: When somebody has the right to sell something it includes the right to transfer the property.

Mr. BELZILE: It needs to.

Mr. LESAGE: We do not have to say it then.

Mr. BELZILE: I mean that what it means here should be read that way: with power to transfer the whole thereof or to sell the same in parcels.

Mr. LESAGE: Why, that is what you have there. It does not mean a thing.

Mr. MACDONNELL: I would say: "power to transfer the whole or any part thereof."

Mr. RILEY: You should put in "to sell or to transfer".

Mr. DUMAS: The first part of your transaction is in the first two lines.

Mr. LESAGE: Would you mind looking at that, Mr. Macdonnell and see what you think of our considerations?

The CHAIRMAN: It is the opinion of the committee that the words "with power to transfer the whole thereof to any person or company or to sell the same in parcels" are redundant, and should come out.

By Mr. Richard (Gloucester):

Q. There may be a question of the transfer of land and the registration which might come in.—A. I would not be quite satisfied to say that the words "with power to transfer" come out. I agree that to sell same in parcels seems to be completely redundant; but as to the other, I would prefer to take Mr. Macdonnell's suggestion that it should read: "with power to transfer the whole or any part thereof to any person or company". It appears to me there may be a little difference in meaning. A trustee might go ahead and complete a sale in the sense that the contract is made and the money ready to be paid over; but when the time came for execution of the formal document, the words might have some significance there, if the question should arise, whether the trustee was the proper person to execute the document.

The CHAIRMAN: Will you take that up with the draftsman and find out about it?

Mr. BELZILE: Could it not be interpreted: with power to transfer in the name and acting for the bankrupt? Couldn't it be interpreted that way?

The WITNESS: I am inclined to think that is the answer.

Mr. BELZILE: I think it is.

By Mr. Richard (Gloucester):

Q. What about the last words of (g)? Do "creditors" mean and include preferred creditors?—A. You mean in paragraph (g)? A creditor there would not include secured creditor.

Mr. LESAGE: It is not in the same condition that we find in 2 (h).

By Mr. Stewart:

Q. 2 (h) means a person having a claim, preferred, secured, or unsecured, provable as a claim under this Act. It is at the top of page 2.—A. That deserves looking into. Those words were added after the bill was introduced. Those words you speak about were added in the Senate. It may be that there is an unforeseen consequence.

Mr. LESAGE: If I am a trustee and I borrow money or property for the administration of the estate, I cannot give a mortgage when there is already one existing because the man having the first mortgage is the one who is entitled.

Mr. RICHARD (*Gloucester*): Is there any chance of the preferred creditor losing his status?

Mr. BELZILE: No. He has consideration.

Mr. RICHARD (*Gloucester*): But if you include "preferred", he takes second place.

The CHAIRMAN: That money borrowed has to be discharged or repaid out of the property of the bankrupt and the holdings of a secured creditor cannot be considered as part of the property of the bankrupt. The mortgagee of a parcel of real estate, to the extent that his mortgage is valid, that part of the real estate is not the property of the bankrupt.

Mr. RICHARD (*Gloucester*): It is only an equity which may be sold.

The CHAIRMAN: That is right.

By Mr. Macdonnell:

Q. It says:

... carry on the business of the bankrupt, ...

I am reading from paragraph (c).—A. May I just check this point?

By Mr. Dumas:

Q. While you are doing that, might I say that I think the point is covered by clause 11, which Mr. Lesage raised; part of his point, I think.

The WITNESS: This paragraph (g) of subsection (1) of clause 10 goes back to section 51 subsection (1) of the present Act; and in the Act there is a definition of creditor.

By Mr. Macdonnell:

Q. Secured or unsecured?—A. "Creditor" was not defined in the same way in the old Act; but the substantive provision was the same: an interim receiver or trustee or custodian may incur obligations, etc., etc., and the money so borrowed shall be discharged or repaid to the lender or to the trustee and so forth out of the assets of the debtor in priority to the claims of the creditors. And creditor in the present Act is defined in an inclusive way so it would apparently include a secured creditor.

Mr. MACDONNELL: I wonder if the chairman is right in what he said a few minutes ago, as to the priority which you get under (g)? Under (c) there is a provision which I think is very important. It reads:

(c) carry on the business of the bankrupt, so far as may be necessary for the beneficial administration of the estate.

How is he going to get money to do it? I was going to ask: does not (g) give him the right to raise money in priority to everybody, just as a receiver and a manager?

The CHAIRMAN: Not in priority to secured creditors. If a man is a secured creditor, then to the extent he is secured, that is not an asset of the bankrupt at all.

Mr. MACDONNELL: In (g) it says:

... such obligations and money borrowed to be discharged or repaid with interest out of the property of the bankrupt in priority to the claims of the creditors;

The CHAIRMAN: No. It is to be paid out of the property of the bankrupt.

Mr. MACDONNELL: Now, a creditor under 2 (h) means "a person having a claim preferred, secured or unsecured, provable as a claim under this Act;"

The WITNESS: I am inclined to think that by reason of the change made in the bill since it was introduced there may be an unforeseen consequence which might give rise to a little argument.

By Mr. Macdonnell:

Q. Does the old definition of creditor include "unsecured"?—A. Creditor means, in the case of a corporation, it shall include bondholder, debenture holder, shareholder and member. You may say that creditor was not defined.

Mr. BENNETT: In the old Act it said mortgage or pledge, which was altogether different. Mortgage or pledge any part of the property.

Mr. LESAGE: It is embarrassing. Would you look at it?

The WITNESS: I will be glad to.

Mr. MACDONNELL: How is a fellow going to carry on unless he can raise money?

Mr. LESAGE: He usually sells some of the things, part of the assets, the movable property.

The CHAIRMAN: He should not be allowed to encroach upon a secured creditor.

Mr. MACDONNELL: A receiver raises money right at the top of everybody, as you know.

The CHAIRMAN: But a receiver is appointed. He is, I think, appointed for a different purpose.

Mr. MACDONNELL: Yet it may be greatly in the interest of the creditors if the business be carried on because it may be their only chance. The receiver raises money in priority to the first mortgage, but he is put in there by the secured creditors. Nevertheless he raises money in priority to everybody.

The CHAIRMAN: He is appointed to carry on the business, not to wind up the estate.

Mr. LESAGE: He is not appointed by the secured creditors. They have not a word to say about the administration of the estate. That is different too. It seems that he is required here to inquire into the circumstances.

The CHAIRMAN: But it is only to be paid out of the property of the bankrupt, and to the extent the secured creditor encroaches upon the title of the bankrupt it is not the property of the bankrupt.

Mr. LESAGE: Suppose I have a mortgage on your property and you go bankrupt. The property on which I have the mortgage is liable to the claim under my mortgage up to the full value realizable on the property.

The CHAIRMAN: Well, if you have a mortgage, it would encroach on the title of the bankrupt.

Mr. LESAGE: Oh well, it would not apply in Quebec because according to our civil law there is no such thing as a mortgage.

Mr. BELZILE: That is right; we have no mortgages under our civil law in Quebec. We have "hypothecs".

The CHAIRMAN: I think the section would stand very careful scrutiny and study by the law officers.

Clause 11, the borrowing powers with permission of court. There again the property of the debtor comes in, but I wonder if there should not be a definition in clause 2 of "property of the debtor". Would that help us?

Mr. LESAGE: No, it is a matter for the courts.

The WITNESS: The property of the debtor that is subject to administration is referred to on page 36. You will find the answer to your question there.

Mr. LESAGE: Yes, it defines the property of a bankrupt divisible amongst his creditors by saying what it shall not comprise so and so; and then in subsections (c) and (d) it defines what it shall be made up of.

The CHAIRMAN: Yes. That should be handled pretty carefully.

The WITNESS: The property of the debtor is, generally speaking, all of his property, in section 39.

Mr. LESAGE: In other words, it refers to tangible things.

The WITNESS: No, sir. It says: "The property of a bankrupt divisible among his creditors shall not comprise"—and then follow two classes one of which is trusts; and the other is: any property that as against the bankrupt is exempt from execution or seizure under the laws of the province within which the property is situated, and within which the bankrupt resides.

The CHAIRMAN: I would think the only way you would be able to meet the issue there would be by writing in a definition of "property of the debtor".

Mr. LESAGE: I do not think you are right in saying that money could be raised in priority of mortgages. It might be possible to raise money actually on a business, but I do not think it could be done in that way.

The CHAIRMAN: You would have to have the consent, if the Act prohibited it; you would have to consult the creditors and get their consent; they could do that.

Mr. BEAUDRY: You take a lot of these businesses that are carried on from day to day, a thing of that kind could happen quite often; but you would have to get the consent of the creditor or creditors who have the right to the money.

Mr. BENNETT: I would think that section would be *ultra vires* on account of provincial jurisdiction over mortgages. I doubt very much if we could here at Ottawa pass any legislation which would affect the validity of a first mortgage on the property of a bankrupt. I know that if I loaned money on the security of a mortgage I would not want to lose it, or lose my right with respect to recovery by having some preferred creditor in a case of bankruptcy rated ahead of my claim under my mortgage.

Mr. MACDONNELL: Isn't that really a matter of policy?

Mr. BENNETT: I think it is a matter of provincial jurisdiction.

The CHAIRMAN: Clauses 10 and 11 will stand for very careful scrutiny.

Clause 12:

Mr. MACNAUGHTON: I do not know whether this is the right time but I have been asked to say a few words in this particular connection. Would this be the right place for me to take the matter up?

The CHAIRMAN: Yes.

Mr. MACNAUGHTON: This is on clause 12. I have been asked to bring this point up by the National Committee of the Canadian Commercial Travellers' Association which is comprised of the Association of Commercial Travellers of Canada, the Dominion Commercial Travellers' Association, the Ontario Commercial Travellers' Association, the Maritime Commercial Travellers' Association, the Northwest Commercial Travellers' Association and one or two others. I should tell the committee that they submitted a brief to the Senate, and that can be found on page 135 of the third volume of the report of the proceedings before the Senate committee. To come to the point, Mr. Chairman, the reason I have taken the trouble to speak at this time on this clause is that this association is representative of approximately 40,000 commercial travellers throughout Canada. Now, Mr. Chairman, the difficulty which faces people of this kind—not only commercial travellers but workers, labourers, wage earners, and people of that general classification, they are more specifically set out in clause 75—is that their claims for salaries, commissions, wages or allowances have a priority to the extent of \$500, and in filing their claims if the trustee after examination finds their claims are not to succeed then they are obliged to make an application to a court. Now, Mr. Chairman, in the case for example of commercial travellers, or even of clerks, wage earners or labourers, whether they are paid by salary or by way of commission, the only recourse they have is to take an action in the courts in an effort to recover if the trustee does not allow their claim, and in many cases they cannot afford financially to do this. As a matter of fact in not a few instances they would have absolutely no money with which to pay the costs of the court should their claim not succeed. Now, they have come to the conclusion—those people on whose behalf I am speaking—that it would be advisable, depending upon the view of the committee, to have the Superintendent of Bankruptcy, for example, issue a directive to all trustees that any preferred

creditor such as a commercial traveller, and these others whom I have enumerated, whose claim is disallowed in full or in part by the trustee for a particular bankrupt, by the trustee who may be appointed by the creditors or by the banks—where that claim is disallowed, that such a person should be allowed to make an application direct to the trustee for a rehearing. As the Act stands now it is going to cost him maybe \$300 in expenses because he has to make an application to a court. We submit that the superintendent should be given the right to present any claim he may have before the trustee again and that he should be entitled to a rehearing. If we could follow a direct and simple procedure of that kind it would save considerable cost to this class of person.

The CHAIRMAN: I think that is a very reasonable suggestion. I do not know how far the superintendent will go along with it in the issue of such a directive, but I do think that it is something which we might try for two or three years and then if it does not work out satisfactorily the Act could then be reamended to make it mandatory. I think the servant or workman or agent and so on who is given a preferred position on account of wages should certainly be entitled to at least a preferred hearing if his claim is disallowed in whole or in part.

Mr. BEAUDRY: I agree with that suggestion, Mr. Chairman.

The CHAIRMAN: I think it should apply right across the board to subsection (d) of clause 95: Wages, salaries, commissions or compensation of any clerk, servant, travelling salesman, labourer or workman for services rendered—and so on.

Mr. LESAGE: But he is a preferred creditor now.

The CHAIRMAN: Any of these people here who are dependent on their wages for a living should certainly be entitled to a hearing by the trustee.

Mr. LESAGE: I do not exactly see why you should make an exception there. After all, the debtor is in bankruptcy, and the travelling salesman, the worker, the agent and so on will have to take action in court. There will be expense, of course; but would not anyone else contend that their rights also should be respected? The usual way, the way we do it in a democratic country is by going to the courts.

Mr. BEAUDRY: But this is not a court.

Mr. STEWART: That hardly meets the situation.

The CHAIRMAN: The whole thing turns on this: Are we casting any unfair burden on the trustee to ask the trustee to appoint a day on which personally to hear the submissions on the part of any wage earner whose claim he has disallowed?

Mr. RILEY: Who has the right to say what the status of the claim is? Who is going to say whether the claim for wages is preferred or not?

Mr. LESAGE: He is supposed to prove his claim in detail to the trustee, or to the inspectors. The section says that if he is a preferred creditor he must file all the reasons in detail showing why he is a preferred creditor.

The CHAIRMAN: Quite true, but the trustee then comes along and makes his decision, an *ex parte* decision without a hearing at all, do you see?

Mr. BEAUDRY: Then he has the right to go to the courts.

Mr. MACNAUGHTON: That is the whole point in this, Mr. Chairman; if you are a workman and you have no money you cannot possibly take an action against a bankrupt in court because you have nothing on which to proceed, you cannot pay your costs.

Mr. LESAGE: If there is nothing in the estate he will not collect anyway and he will not want to go to the expense of appealing. There is no use in appealing from a decision if there is not a cent there, but if there is anything there and he wants to he has the right to appeal to the courts.

Mr. MACNAUGHTON: What I am interested in particularly is the case of the ordinary person who is not able to go to the courts. He should have the right of a rehearing before the trustee with a view to establishing his claim.

The CHAIRMAN: I am simply looking for a simplified and direct mode of procedure, of relief on claims of this nature. You see, the trustee is put in this place, the way the Act stands now; he gets these preferred claims for wages, he calls in his inspectors, and if there is any doubt about it he calls in the bankrupt. The bankrupt says, "I don't owe this". The trustee simply disallows it. And then all these wage earners must appeal to the courts if they are going to get any redress. Why would it not be much more direct to set up the machinery for the inexpensive and immediate disposal of these matters?

Mr. ISNOR: This matter is covered in clause 94. I think if you were to take clause 94 and write three words into it you would have a solution of Mr. Macnaughton's problem. I will read the section as it would then appear:

94 (1) The trustee shall examine every proof and the grounds of the claim, and may require further evidence and personal attendance in support of it.

Mr. LESAGE: "May".

Mr. ISNOR: I understand "may" has the effect of requiring a thing to be done, in law.

The CHAIRMAN: Not when in the same sentence the word "shall" appears.

Mr. ISNOR: Well, I am not a lawyer, but I thought you could enforce that—just say the trustee shall examine every proof, and so on; and then "may require further evidence and personal attendance in support of it."

Mr. BEAUDRY: With all due respect to these lawyers, I object.

The CHAIRMAN: Shall we carry clause 12, and make a note at clause 94 of this matter, whatever should go in; we will put it in under 94. I think that is the logical place for it. Mr. Macnaughton, have you had a look at 94?

Mr. MACNAUGHTON: I haven't studied clause 94 yet. No.

The CHAIRMAN: I would think that any statutory change should come in clause 94.

Mr. MACNAUGHTON: I am merely trying to protect persons who have found and who find themselves honestly without any funds and as a result without ability to appeal to a court.

Mr. BEAUDRY: I do not want any misunderstanding of my attitude on this matter. I am in full agreement with you.

The CHAIRMAN: If it is dealt with under clause 94 it will refer to all preferred creditors and your position is improved.

Mr. BEAUDRY: Definitely.

The CHAIRMAN: Shall clause 12 carry?

Carried.

The CHAIRMAN: Clause 13—

Mr. BEAUDRY: Mr. Chairman, I have to leave the committee at the moment. I am particularly interested in clause 52 and should it be reached before I am able to return you would oblige me by permitting me to reopen it.

The CHAIRMAN: I will make a note of that, Mr. Beaudry. Thank you.

Clause 13?

Carried.

Clause 14?

Carried.

Clause 15?

Carried.

Clause 16: Perhaps this clause should have a bit of discussion. This is practically a new section inserted on the recommendation of the Toronto Board of Trade and Judge Urquhart.

Mr. BENNETT: I wonder if Mr. MacDonald would give us a practical instance of what would happen under clause 16.

The WITNESS: Well, a situation like this could develop; in fact it did develop just a few weeks ago. In the administration of an estate there are certain book debts that the trustee thought were worthless and not worth following up, and most of the creditors, in fact the majority of the creditors and the inspectors agreed with him, that it would be good money thrown after bad to follow it up. One of the creditors alone disagreed very strongly with that. And that is a case where that creditor could secure the right of taking action in his own name (presently in the name of the trustee but with the same effect) and he would benefit in the amount received up to the extent of his claim.

Mr. LESAGE: For the whole of his claim?

The WITNESS: He has the right to all that he recovers, except the monies over and above his claim.

Mr. LESAGE: To the whole of his claim.

The WITNESS: Yes.

Mr. LESAGE: If he has a claim of \$300 and he goes out and, let us say, collects \$500, he could keep the \$300 and the trustee or other creditors would get the benefit of the \$200.

The WITNESS: Yes, and when you consider it, that is a fair result, because he has made something out of what the other creditors thought was of no value.

Mr. MACDONNELL: What would be the situation where more than one of the creditors decided to try to follow up and collect these book debts? Would they share equally?

The WITNESS: I think that is the present effect. I had not considered this point because it had not arisen in my experience. I do not know whether it has arisen. But under the ordinary rule of interpretation the singular could be construed to include the plural; and if that interpretation is right it might be that both creditors would benefit. I am inclined to think, just offhand, that two creditors could take advantage of that as well as one. How they rate among themselves—

Mr. LESAGE: Well, suppose the claims were not in the same amount; suppose they totalled \$1,000 and that one man had a claim for \$400 and the other had a claim for \$600; on what basis would distribution be made?

The CHAIRMAN: All right, pro rate it.

Mr. LESAGE: That is a good suggestion, but it does not say anything here about having it pro rated. It is not provided for.

Mr. RILEY: That would be covered by the definition with respect to creditor.

Mr. LESAGE: Under the general rules of interpretation, I suppose they would apply; the singular includes the plural.

The WITNESS: I should think the context would permit it. And by way of example, I would think that the result would be this: you have a creditor for \$500 and you have a creditor for \$300, and they go out jointly and recover let us say \$1,000, they would both get—

Mr. LESAGE: That is easy, they both recover \$500.

The WITNESS: The balance of \$200 goes to the trustee.

Mr. LESAGE: Well, that is fair.

Mr. MACDONNELL: Is not that where the judge comes in: upon such other terms and conditions as the court may direct

Mr. LESAGE: Absolutely, that is right.

The CHAIRMAN: Shall clause 16 carry?

Carried.

Clause 17, remuneration of trustee.

Mr. MACDONNELL: I am not sure what subsection (2) means: may retain "a sum not to exceed $7\frac{1}{2}$ per cent of the amount remaining out of the realization of the property after the claims of the secured creditors have been paid or satisfied." Might that not be nothing?

The WITNESS: Yes.

Mr. MACDONNELL: Why does he have to work for the secured creditors for nothing?

Mr. LESAGE: He is not working for the secured creditors.

Mr. MACDONNELL: Oh, I see what you mean. It is unfortunate.

Mr. LESAGE: I suppose the creditors or the bankrupt himself would have to look after the trustee.

Mr. BENNETT: He would not be allowed to collect or charge any more than $7\frac{1}{2}$ per cent.

Mr. STEWART: Is that not taken care of under section 95 (b)?

Mr. LESAGE: That is the fixed amount of his remuneration, but it does not say that he shall be paid by the preferred creditors. This is after they have been taken care of. If there is anything left he can take up to $7\frac{1}{2}$ per cent, but only if there is something there for him to take.

Mr. RILEY: And there may be cases where he is left with nothing.

Mr. FULFORD: He has to take a chance on what he makes.

Mr. MACDONNELL: What is the factual answer? The preferred creditors would have to pay him themselves, would they not?

The WITNESS: I am sorry, my attention at the moment was on another point. Could I have your question over again?

The CHAIRMAN: The question is that the trustee under subsection 2 of clause 17 may find himself without remuneration, and Mr. Macdonnell asked what the practical answer to that is.

The WITNESS: Well, the practical answer, in part, is that the trustee may sometimes, to put it colloquially, take a licking. That is sometimes what does happen.

The CHAIRMAN: Before you leave that, have you had any representations from the trustees; do they object to this? Have they made any recommendations on this clause 17? They are the interested parties, and surely if there is anything wrong with it we would have heard from them.

The WITNESS: I have had one representation on clause 17, but it relates to a different point. There has been no representation, as I remember, on this particular aspect of it. The other part of the answer would be that at the present time the trustee voluntarily takes on an estate, and before doing so he could consider that aspect of the estate.

Mr. MACDONNELL: I suppose he could make a private deal.

Mr. LESAGE: No, he could not. What usually happens is this: suppose a person goes to a trustee and makes an assignment the trustee looks at the assets

and if he feels that he could not realize enough on the assets to pay him for his costs he will send him to a lawyer. But it sometimes does happen that he doesn't get a thing.

Mr. QUELCH: What happens if no trustee will take it?

Mr. LESAGE: That is provided for in the Act.

The WITNESS: No. If no trustee will touch it the debtor goes unbankrupt.

The CHAIRMAN: Mr. Lesage, I have to leave for a few minutes, will you take the chair, please?

Mr. Lesage, the vice chairman, assumed the chair.

The VICE CHAIRMAN: Mr. Riley, you had a question.

By Mr. Riley:

Q. Well, Mr. Chairman, what I asked was this: supposing the remuneration of the trustee was not fixed at the first meeting and supposing the trustee could not get the creditors together for a second meeting—the trustee steps out of control then?—A. You mean, supposing at the first meeting no fee is fixed?

Q. Yes.—A. And the trustees cannot get the creditors to take any further action?

Q. Yes.—A. Well, the answer to that is that he would be entitled to put 7½ per cent in his account and it would be passed by the court.

Q. And that would be after the claims had been settled according to the proposal?—A. Yes, and then we get back to the predicament that we considered a moment ago.

Q. Yes, what happens then?—A. What happens?

Q. Isn't this what happens; the trustee looks over the assets, sizes the picture up, and decides whether or not he wants to act?—A. Yes.

Q. And if he decides to act then it is his responsibility and his risk?—A. Exactly, and they may go further and say to the bankrupt or to the insolvent person: it does not appear that there will be enough assets to give me my remuneration. Can you make any private arrangement with me to take care of my fees, either by having some of your friends do that for you, or by undertaking to make payments to me out of your future earnings? And if the insolvent person can satisfy the trustee that he will get something, or if the trustee is willing to absorb it in his business, then the case is handled. But if it comes to an absolute impasse, the man does not become bankrupt in the technical sense.

By Mr. Belzile:

Q. There may be a case where there is a secured creditor, and there the creditor will prosecute according to law and get his little amount out of the realization of the assets.—A. Yes.

Q. Somebody may have a claim which is secured or preferred, and then he sues his debtor for the whole thing.

By the Vice Chairman:

Q. Does clause 17 carry?

Carried.

Does clause 18 carry? There is a new subsection here. Could you give us a practical example, Mr. MacDonald?—A. Well, it might cover something that was of some value to the debtor but which did not have any money value at the present time to the trustee.

By Mr. Belzile:

Q. Such as family pictures?—A. Not that. I think it would have a little more practical effect than family pictures. I am trying to think of something now because it is a new section. You might have the remaining part of a lease, perhaps, which turned out to have no commercial value but which was of some use to the debtor, if he was going to continue in business. Then again, you might have some old fixtures for which you could not get anything on the market but which might be worth something to the debtor.

By Mr. Isnor:

Q. Or you might have a trademark which nobody would require except the debtor and he might find it valuable in future use.—A. Yes.

By the Vice Chairman:

Q. Does clause 18 carry?

Carried.

Does clause 19 carry? There was no obligation on the trustee to obtain a discharge before, but he always did?—A. Yes.

Q. It was in his own interests?—A. And we press him, of course, to do so.

Q. I know that. Does clause 19 carry?

By Mr. MacDonnell:

Q. With regard to subsection 2:

(2) the court may discharge a trustee with respect to any estate upon full administration thereof or, for sufficient cause, before full administration.

Would that discharge cover a discharge for some kind of misfeasance?—A. It is not so intended.

Q. I did not think so.—A. It is intended to meet a case where some matter of realization is so far in the future that the trustee does not want to be continued.

Q. And you deliberately leave the reason at large, and you just say "for sufficient cause"?

The VICE CHAIRMAN: Yes. It is up to the court.

Does clause 19 carry?

Carried.

Does clause 20 carry? "Acts of bankruptcy"?

Mr. MACDONNELL: I did not notice how long this is. Can we look at the second part of 19 just for a moment?

The VICE CHAIRMAN: Yes.

Mr. MACDONNELL: You may go ahead and I will come back to it if I want to.

The VICE CHAIRMAN: No, it is quite all right.

By Mr. MacDonnell:

Q. I take it that subsection 10 just means sort of formal acts which are still to be done after the discharge. Is that what it means?—A. It might, yes. I think that it goes further than that. This is an instance, an idea of it applying: let us suppose that a dividend, for some reason or other, does not reach the creditor who is entitled to it. Let us say a \$50 cheque is issued as a dividend to a creditor, but through some mistake or other it is not cashed. Anyway, he does not get it and the money is paid to the Receiver General of Canada. Until proper proof can be made through the trustee, the Receiver General is the only custodian of the money. I think it could be paid out to a reappointed trustee, who would be the authoritative person to deal with the Receiver General rather than somebody he did not know.

Q. Could you give us an illustration of No. 11?—A. Yes, sir. After the trustee has been discharged, let us say that an undiscovered asset turns up. It might turn out that he had a few shares of stock tucked away somewhere and that they only came to light; or he had a mortgage on property, or it might be that it had been discovered but had been overlooked by a trustee, and he proceeded and got his discharge. Then a trustee could be reappointed to realize on it.

The VICE CHAIRMAN: Does clause 19 carry?

Carried.

Now, with respect to clause 20, (a), (b), (c) (d) and (e) there is no change; and in (f) (g) and (h) there is no material change. Paragraph (i) is new but I think it is quite clear.

The WITNESS: The purpose of (i) is to tie in with the new part.

By Mr. Belzile:

Q. The new provision?—A. Yes.

The VICE CHAIRMAN: Does clause 20 carry?

Carried.

Does clause 21 carry?

Mr. BELZILE: The only change in there is the \$1,000.

The VICE CHAIRMAN: It is \$1,000 instead of \$500. That is one point which Mr. MacDonald explained this morning. Was this increase in the amount proposed by any organization?

Mr. ISNOR: Yes, by the Canadian Credit Men's Association.

By Mr. Stewart:

Q. What is the amount in the United States, Mr. MacDonald?—A. I cannot give it to you offhand, but we can get that information very quickly.

The VICE CHAIRMAN: Clause 21, apart from the change from \$500 to \$1,000, is only a redrafting for the purpose of simplification and clarity.

The WITNESS: That is largely the case, substantially. I am looking at page 25, when I say that.

By the Vice Chairman:

Q. Yes.—A. There is a little difference in subsection 9 because we have dropped the description of custodian.

Q. Yes.—A. May I reply to Mr. Stewart's question: the last figure that we have right here is \$1,000 in the United States. But I notice—this book is 1938, and when I get back to the office I would wish to check for changes made in the meantime.

Mr. STEWART: All right.

(Mr. Cleaver resumed the chair)

The VICE CHAIRMAN: We are on clause 21 now, Mr. Chairman.

Mr. BELZILE: Clause 21 has to do with a matter of procedure, has it not?

By Mr. Macdonnell:

Q. Would you explain subsection 15 of clause 21?—A. It gives the creditor his choice of proceeding against any of the partners, any of the members of a partnership.

By the Chairman:

Q. Not including?—A. Suppose he is a creditor, let us say, to the extent of \$1,000 against a partnership. Let us say there are three members of the partnership. He may proceed against any one of them or any two of them or he may proceed against the three of them just as he chooses.

Mr. MACDONNELL: I do not understand the significance of the phrase "any creditor whose claim is sufficient to entitle him to present a bankruptcy petition against all the partners...." There is some point which I have not got.

Mr. BELZILE: I believe the point arises in that in law you cannot prosecute a partnership as such. You have to prosecute the members of the partnership as such, every partner. But you cannot prosecute against the partnership.

Mr. BENNETT: Oh yes you can, in Ontario.

Mr. BELZILE: Suppose there was a partnership of Lesage, Isnor and Belzile. If you want to prosecute that partnership, you have got to prosecute John Lesage, Gordon Isnor, and Gleason Belzile, doing business under the name of Lesage, Isnor and Belzile as partners.

The CHAIRMAN: It is hard to understand. In Ontario the liability of a partnership is joint and several. The wording here would indicate that, perhaps, in some parts of Canada it is not a joint and several liability.

Mr. LESAGE: It is not in Quebec; it is a personal liability. The liability is not limited by the amount.

Mr. BELZILE: By the amount of money that was put into the partnership.

Mr. MACDONNELL: I still do not understand the phrase that they are entitled.

Mr. ISNOR: Doesn't that mean that they claim \$1,000; that the claim must amount to \$1,000?

The WITNESS: According to the definition of a person on page 3, a person includes a partnership.

By Mr. Isnor:

Q. And the other principle is the same as that of an endorser. Be it one, two or three endorsers, they are liable.

Mr. MACDONNELL: Anyone who is entitled to present a bankruptcy petition can present it against one or two members of the firm. I do not think it is a very happy principle. I think it is stupid. I think the first part means: anyone who is entitled to present a bankruptcy petition can present it against one or more of the partners; they are all partners.

By Mr. Lesage:

Q. And any creditor whose claim is sufficient—I do not understand why there is a distinction, because anyone can present a bankruptcy petition if the insolvent person has over \$1,000 debts, can he not?—A. This would clear the matter up. Because, in the absence of subsection 15, it might be argued that he had to proceed against all the partners.

The CHAIRMAN: If that is the intention, why should it not be worded in that way?

Mr. BELZILE: We have in Quebec what is known as the discussion of assets. When it comes to bankruptcy of one of the partners, you have got to discuss the assets with him; you have a right to have the assets separated, to have the assets of a bankrupt partner separated from the assets of the other partners who are not bankrupt. One of the partners might be entirely solvent. Why prosecute a man who is not solvent and then not even recover your costs?—A. It is the same wording in the present Act. It goes back to the 1919 Act, which I think

is the same: "any creditor whose debt is sufficient to entitle him to present a petition of bankruptcy against all the partners of a firm may present a petition against anyone or more partners of the firm."

By Mr. Lesage:

Q. Why limit it to the creditor who has a claim of \$1,000? Why limit it to that creditor?—A. I see the point.

Q. That is what Mr. Macdonnell asked first.

Mr. BENNETT: I do not think that is the point of that section. It is the power to present a petition against one partner. That is all it means. It is not trying to limit it.

Mr. LESAGE: But it does limit it.

Mr. LAING: Let us suppose there were three partners. Then their liability would be only \$333 each, in the case of a \$1,000 claim.

Mr. MACDONNELL: I think it would read better if it said: "against a firm, may present a petition against any one of the partners."

Mr. LESAGE: Why limit it to the creditor whose claim is sufficient to entitle him to present a bankruptcy petition?

Mr. BENNETT: It is just an ordinary claim in bankruptcy. If A and B owe me \$1,000, I can proceed against A.

Mr. LESAGE: But suppose he owes you \$500.00?

Mr. BENNETT: Then I could not do it.

Mr. LESAGE: Yes you could.

Mr. BENNETT: At the time the debt owing to the petitioning creditor or creditors amounts to \$1,000.00, the man who petitions must have a debt of \$1,000.

Mr. MACDONNELL: Clause 21-(1)-(a).

Mr. BENNETT: It is summarized. What they mean is the power to present a petition against one partner.

Mr. FULFORD: You think that one partner can pay and the others cannot, and you get after the fellow who can pay.

Mr. BENNETT: Can one partner not join his defaulting partners, Mr. MacDonald?

The CHAIRMAN: He would have the right to sue them.

By Mr. Bennett:

Q. If I petition against "A" in a partnership, can I say that I want "B" joined?—A. No, unless you are petitioning against—

Q. There is no power in the partner who is petitioned against to add another partner?—A. To add another partner, no.

Q. Well, that does not seem right.

Mr. MACDONNELL: You cannot deprive him of his rights between himself and his partners, though.

Mr. BENNETT: I might be dragged through bankruptcy proceedings just because somebody did not like me, while my partners could sit there free.

By Mr. Laing:

Q. Would it not be fair to join all the partners in a case like that?—A. I would like to think that out a bit more. The point is: if there are three partners, A, B, and C, and the petitioning creditor, let us say, likes C, he thinks he is a good fellow and he does not want to bring him into it. So he says: we will just go against A and B. And then A and B should be able to say: C was with us and should be joined in this bankruptcy.

By Mr. Bennett:

Q. That is right.—A. I suppose that A and B are subrogated to certain rights against C arising out of their partnership relationship.

The CHAIRMAN: How would this meet your question as to the wording, Mr. MacDonald?: "Any creditor whose claim against a partnership is sufficient to entitle him to present a bankruptcy petition may present a petition against any one or more partners of the firm without including the others."

By Mr. Macdonnell:

Q. I think that would be more intelligible.—A. That seems to be quite all right. I will go over it tomorrow at leisure and if I see anything wrong, I will bring it up.

The CHAIRMAN: Would you think of a subsection there to be added that in the event of bankruptcy proceedings being taken against one or two only of the partners of a firm, that an application might be made to the court to have them all added?

Mr. BENNETT: That would be my idea. The singular is used with creditor in the subsection; but in 21-I-(a) it says:

" . . . the petition creditor or creditors . . . "

I believe subsection 15 should read "any creditor or creditors."

Mr. LAING: Any creditor means all creditors.

Mr. BENNETT: Any creditor may mean one creditor.

The CHAIRMAN: There is a difference in meaning. Suppose that two creditors team up to make the desired amount you see?

Mr. BENNETT: In 21-I-(a) you distinctly use the words: ". . . petitioning creditor or creditors. . . ." That is what disturbs. You went past that technical objection in 16 the same way. This is a technical Act and I think you have got to be careful with it.

By Mr. Lesage:

Q. They do not become only one because of the words in clause 21-(15).—A. I think there is perhaps a special reason for using the words "creditor or creditors" in section 21 because, unless they were used in that way, I do not think it would be clear that creditors might combine to get a claim up to \$1,000. I do not think that the use of creditor or creditors in that section imperils the application to any of the other sections of the ordinary rule of construction that the singular includes the plural and vice versa.

By Mr. Macdonnell:

Q. Does not that apply where the sense demands it? That is not a categorical statement, is it?—A. No. It is only a rule of interpretation.

Q. Does it necessarily demand it here unless it says so?

Mr. BENNETT: We are drawing a statute and we should try to be as clear as we can so that it cannot be argued about in the courts. Here is Mr. Lesage, who is a good lawyer and right off the bat that thought occurs to him. That is a point which would certainly be argued about in court.

By Mr. Lesage:

Q. It means only one thing.—A. I would wish to look at that a little further before I committed myself to you, Mr. Macdonnell. The burden is the other way under the Interpretation Act. It is not where the context requires it, but unless the context forbids it. My fear about making a change in subsection 15 is this: that once you have that rule of interpretation, every time

you go, in a particular section, and express it disjunctively, you are undermining your rule; and we may find that we have undermined it in other sections.

Q. Should we not go back to the definitions? We say in subsection (15):
any creditor whose claim is sufficient to entitle him"
It points it out to the creditors specifically, to one creditor.

Mr. RILEY: A change in the interpretation clause would cover the whole thing. That would clarify it.

Mr. LESAGE: It is embarrassing but we will let Mr. MacDonald brood over it.

The WITNESS: I shall read it.

The CHAIRMAN: Does clause 21 carry? Clause 21 then is carried with the exception of subsection 15 which stands.

Mr. BENNETT: You are going to consider that other clause, about joining the partners?

The CHAIRMAN: Yes.

Mr. ASHBOURNE: One member of the committee used the word "insolvent". Is there any difference in the idea of an insolvent and that of a bankrupt?

Mr. LESAGE: I might be insolvent but not bankrupt: If there is no petition against me, I am not bankrupt, but I may still be insolvent if my liabilities exceed my assets.

Mr. MACDONNELL: Even if nobody knows about it.

Mr. LESAGE: Insolvency means the state of a person whose liabilities exceed his assets.

The CHAIRMAN: Does clause 22 carry?

Mr. STEWART: It is now twenty minutes to six o'clock.

The CHAIRMAN: Very well then, we now stand adjourned until 11.30 a.m. tomorrow morning, Friday, November 25, 1949, when we shall meet in room 277.

EVIDENCE

HOUSE OF COMMONS,
November 25, 1949.

The Standing Committee on Banking and Commerce met this day at 11.30 a.m. The Chairman, Mr. Hughes Cleaver, presided.

The CHAIRMAN: Gentlemen, we have a quorum.

**Mr. T. D. MacDonald, K.C.,
Superintendent of Bankruptcy,
recalled:**

The CHAIRMAN: We have reached clause 22 of this bill. Shall the clause carry?

Carried.

Clause 23?

Carried.

Clause 24?

Carried.

Clause 25?

Mr. FULFORD: A question arose here about fishing.

The CHAIRMAN: I suggest that we stand 25 over because Mr. Isnor is not here.

Mr. FULFORD: If fishing is going to be excluded there are several complementary industries which might be considered. I am thinking of the small logging industries; I am not talking about incorporated logging firms but small logging operations might be considered.

Mr. LESAGE: I understand that the reason why farmers are specified is that there is a special arrangement for them—the Farmers' Creditors' Arrangement Act—and I see no reason why we should exclude fishermen or the other trades.

The CHAIRMAN: We shall let this clause stand.

Clause 26?

Carried.

Clause 27?

Mr. ASHBOURNE: Is there anything in this act, with regard to this part 3 proposal, which would debar a man who was insolvent, and who contemplated being forced into bankruptcy, from making a composition with his creditors without going under the Bankruptcy Act?

The CHAIRMAN: I think not, so long as they were all agreed.

The WITNESS: You have answered the question correctly.

The CHAIRMAN: As long as the creditors are unanimous they can do anything they want to do.

Mr. RICHARD (*Gloucester*): A moment ago before the meeting I was asking Mr. MacDonald about the situation where a certain man is required, in order to present a petition, to submit a list of creditors with debts amounting to a certain amount. Supposing some of those debts are not allowed and the amount is reduced below the requirement here. What is the result?

The WITNESS: The petition fails.

Mr. LESAGE: You are talking about an assignment or about a petition?

Mr. RICHARD (*Gloucester*): Well he has got to prove a certain amount of indebtedness. Sometimes the amount will be padded so as to bring it within the law and then later a number of those liabilities may not be legitimate. What I want to know is what happens then?

Mr. LESAGE: The petition will be dismissed.

Mr. RICHARD (*Gloucester*): And the assignment, if an assignment has been made?

The CHAIRMAN: Are there any further questions on clause 27? Shall the clause carry?

Carried.

Clause 28?

Carried.

Clause 29?

Carried.

Clause 30?

Carried.

Clause 31?

Mr. MACDONNELL: I notice in the memorandum handed to us that a suggestion was made by the Toronto Board of Trade, but not adopted, that creditors with claims of less than \$25 be excluded in computing the required majority. I must say I would not be in favour of that, but is there any comment on it?

The WITNESS: We felt that it was taken care of by the special resolution rule as referred to in Section 31 and defined in the interpretation section—under section 2(t) on page 4.

Mr. LESAGE: What is the meaning of the words “any class of creditors?”

The WITNESS: Secured, preferred, or ordinary.

Mr. LESAGE: There must be three-quarters of the value of the debts of all creditors, not only those present at the meeting?

The WITNESS: Present personally or by proxy, yes.

By Mr. Macdonnell:

Q. What is that again?—A. It is a resolution decided by a majority in number and three-fourths in value of the creditors with proven claims present personally or by proxy at the meeting in question.

Q. Then under that you could have, perhaps by accident, a very small percentage of the creditors present but a three-quarters value represented and you could go ahead?

Mr. LESAGE: Three-quarters.

The WITNESS: Yes.

The CHAIRMAN: Those who are interested should attend. There is no quorum requirement at all.

Shall the clause carry?

Carried.

Clause 32?

By Mr. Macdonnell:

Q. Could we have an explanation of that requirement? Can a debtor, without regard to his reasonableness refuse a proposal? In other words has he got an absolute veto?—A. The proposal comes from the debtor. It originates with him.

Q. Then under this, the creditors may include such provisions or terms in the proposal with respect to the affairs of the debtor as they wish. In other words, this clause 32 is a proposal of the creditors but the debtor has an absolute veto?—A. Yes, because the original proposal is voluntary on the part of the debtor. The debtor did not have to make a proposal in the first place.

Q. I see that.—A. He makes a proposal and the creditors may say that they are not quite satisfied with that proposal and in effect they can say they do not want him to make that proposal but want him to make a slightly different proposal embodying such and such other terms. Then, the debtor can of course say he does not care to make that kind of a proposal, in which case he is back in his original position and the creditors have their original remedies.

Mr. LESAGE: Then it is a matter of a counter proposition from the debtor which the creditors may or may not accept?

The CHAIRMAN: The creditors may say that they will not accept the offer but that they will accept such and such an offer.

Mr. RICHARD (*Gloucester*): The proposal may be accepted but if they want to carry on the business in a certain way the debtor is the one who supervises it and he can say yes or no?

Mr. BELISLE: I think there is a mistake somewhere here. A proposal is usually made in settlement of the debts. The debtor proposes, for instance, 15 cents on the dollar, but the creditors ask for 20 cents or 25 cents. That is the usual sense of all proposals submitted to the court.

Mr. RICHARD (*Gloucester*): But what about the words "supervision of the affairs—"?

Mr. LESAGE: They may require that the debtor for instance must have an accountant follow the business and report to the creditors. The debtor is free to refuse, and if he refuses he is in his original position.

Mr. MACDONNELL: I suppose if we left that out the debtor might find himself faced with a very difficult situation.

Mr. LESAGE: It works very well in practice.

The CHAIRMAN: Shall clause 32 carry?

Carried.

Clause 33?

The WITNESS: May I correct an impression that was given a moment ago. There is a quorum of three required at a creditors' meeting under clause 72.

The CHAIRMAN: Yes.

Clause 34?

By Mr. Macdonnell:

Q. Could I have a word of explanation here? I see there are some suggestions made on this section and perhaps the superintendent might give an explanation? I notice that there was a suggestion as to priority of claims.—A. It was suggested by the Toronto Board of Trade that the words "any person other than the trustee is to collect and distribute" be used instead of "any other person is substituted for the trustees to collect and distribute". The change was a purely formal one and it was not adopted because it was felt that the present words covered the situation.

—Mr. Lesage took the chair.

By Mr. Macdonnell:

Q. The first four lines of that subsection seem a little confused. Would you mind enlarging on them?—A. (4) no proposal shall be approved by the court that does not provide for the payment in priorities to other claims of all claims directed to be so paid in the distribution of the property of a debtor—

That is the same as the provision which is in the present Act, and it means in effect that all the preferred creditors must be paid in full in order for the proposal to be accepted. All the priorities must be conformed with, must be honoured.

By Mr. Quelch:

Q. Have the preferred creditors the power to reduce that claim?—A. It is a principle in a matter of this kind that any restriction placed on the creditors or on any class for its own protection can be waived by the creditor affected. The point came up under the section in the present Act, and there is jurisprudence to be found on it.

By the Vice Chairman:

Q. Can it be waived by a majority of the class or must it be waived by the whole class "in toto", by all of the creditors?—A. I would say offhand it would have to be waived creditor by creditor according to his rights, as those rights were affected.

By Mr. Quelch:

Q. In so far as other creditors are concerned, can the majority accept the proposal?—A. No.

Q. It has to be accepted by each?

By Mr. Macdonnell:

Q. We do not want to split hairs.—A. Perhaps I misunderstood. I thought you were referring to preferred creditors as a class, that the ordinary creditors under the majority rule—

Q. In number and in value?—A. That is a special resolution rule.

By the Vice Chairman:

Q. In the class?—A. In the class.

Q. The majority plus the dollar provision? That is section 31; that is the explanation I wanted. Are there any further questions on section 34?

By Mr. Richard (Gloucester):

Q. As to subsection 6, I suppose that the title of the trustee to revest after the proposal is accepted is just what he took by the assignment; it does not disturb the secured creditors?—A. No, sir, it does not disturb the secured creditors.

Q. The transfer back and forth does not affect them?

By Mr. Macdonnell:

Q. I suggest that the superintendent might again look at the word "so". I do not know what it is doing there; but I do not want to pursue it. Subsection 4 begins by saying:

(4) No proposals shall be approved by the court—

And then subsection 5 says:

(5) In any other case the court may either approve or refuse to approve the proposal.

Has the court no discretion in subsection 4, no discretion whatever?—A. No discretion in subsection 4.

Q. The last three lines of subsection 4 read:

—nor shall any proposal be approved in which any other person is substituted for the trustee to collect and distribute to the creditors any moneys payable under the proposal.

So they have the same discretion, only “any other person” is substituted for the trustee and so on?

The VICE CHAIRMAN: There is no discretion there.

Mr. MACDONNELL: That is right, I take that back. But why? The creditors have no authority whatever to substitute anyone for the trustee?

The VICE CHAIRMAN: Another trustee.

The WITNESS: You see, this is not a voluntary composition in respect that each creditor can speak for himself because he may be compelled by the majority rule. So, to protect creditors. This provision requires that the trustee be a trustee licensed under and subject to the provisions of the bankruptcy office.

By Mr. Macdonnell:

Q. But this says that you could not change a trustee, could not substitute one trustee for another.—A. Well, the proposal starts off by being lodged with a trustee.

Q. I beg your pardon?—A. The proposal starts off by being lodged with a trustee under the Act.

Q. Is there any provision elsewhere whereby one trustee can be substituted for another?—A. Yes, sir.

The VICE CHAIRMAN: Section 35 carried.

By Mr. Macdonnell:

Q. No, just a minute. We go back to—what is the clause which provides? Twenty-seven, oh yes:

27. (1) A proposal may be made by (a) an insolvent person, and (b) a bankrupt.

Is there any particular significance which does not meet the eye with regard to the beginning of section 35 which is confined to an insolvent person?—A. No. That just provides the procedure in the case of an insolvent person as distinct from a bankrupt when he comes to make his proposal.

By Mr. Richard (Gloucester):

Q. What about clause 35 where it says:

... the time of the filing of the proposal shall constitute the time for the determination of the claims. . . .

Do you mean to say that any claims which would become due after the time of filing could not enter into the list of creditors?—A. Yes, that would be the fact.

Q. Well, a debtor may file his proposal, and then something may come due after the filing. Where does that fellow fit in?—A. Well, he would not be bound. That creditor would not be bound.

The VICE CHAIRMAN: Suppose it exists but has not matured?

Mr. RICHARD (*Gloucester*): Yes, suppose there be a note or draft.

The VICE CHAIRMAN: It would be included in the proposal then.

Mr. RICHARD (*Gloucester*): Q. Does he rank too?—A. I will have to look up that point.

Mr. BENNETT: He obviously would not be bound, particularly the preferred creditor.

Mr. MACDONNELL: Do you say that he would or would not?

Mr. BENNETT: He would not be bound.

The WITNESS: That is covered in the case of a bankruptcy by section 83. But as for a proposal, I shall have to look into that and give you my answer later.

By Mr. Isnor:

Q. I wish to ask Mr. MacDonald a question. I think it comes under clause 35. Suppose a case as follows: one of the creditors is advised as to the proposed settlement which is agreed upon by the trustees, but he takes exception to the proposal, feeling that in time his claim will be worth more to him, the creditor, and for that reason he does not accept. Is that permissible?—A. No, sir, he is bound by the proposal.

Q. He is absolutely bound?—A. He is absolutely bound, provided that the proposal has been passed by a special resolution and approved by the court.

Q. Is that along the same lines as the old Act?—A. Yes. In the case of a proposal made after bankruptcy, it is along the same lines.

By Mr. Richard (Gloucester):

Q. The acceptance of the proposal works out in the same way as an assignment?—A. Yes, in a sense that is quite correct.

Q. The man who does not want to accept it, nevertheless, if the proposal be accepted, becomes bound by the majority.

The VICE CHAIRMAN: Of course, he can go before the court. The proposal has to be approved by the court. If you look at section 34 subsection (1) you will see that any creditor who is dissatisfied with the proposal may go before the court and state his objection.

By Mr. Isnor:

Q. Proceeding one step further with my question: in the case of a judgment against a party bound, they would all be wiped out by the decision under the Bankruptcy Act.—A. No, it is not wiped out.

Mr. RICHARD (*Gloucester*): It is not wiped out. If he acquires assets after his discharge, that judgment would be good.

The VICE CHAIRMAN: It is not wiped out in the sense that if the debtor does not comply with the payments he has to make under the proposal, then the proposal is void and the judgment is there and he can be proceeded against.

Mr. ISNOR: Why I ask you that question is: I cannot see how the first ruling can be sustained because all that I, as a creditor, would have to do would be to say that I am not prepared to accept the proposal because I believe that further operations of the debtor would warrant my withholding my claim. But in the meantime I put in a judgment against the debtor and unless it is wiped out it still stands good.

The VICE CHAIRMAN: No. The effect of the judgment is suspended, it is only suspended.

By Mr. Isnor:

Q. I am quite prepared to accept your opinion as a lawyer, but I would like to get the opinion of the superintendent as well.—A. The position I would say would be this: the judgment is not wiped out in a technical sense. But the same result follows as if it had been a judgment in a case of bankruptcy. You cannot proceed with it. When the debtor finally gets his discharge after

the composition, you can not proceed with it. So although I did not like to accept the use of the words "wiped out", nevertheless to that extent it is rendered ineffective.

Mr. ISNOR: Cancelled.

The VICE CHAIRMAN: No, it is a stayed execution of the judgment.

By Mr. Richard (Gloucester):

Q. In so far as the assets which he has at that time are concerned; but if the composition is accepted and the debtor acquires property after that, then the judgment is still good.—A. No, I would say that the judgment—well, I am forced nearly to the language proposed by Mr. Isnor—the judgment is rendered ineffective.

The VICE CHAIRMAN: It is paid.

By Mr. Richard:

Q. Suppose the debtor, before getting a discharge, acquires property after making his composition or distribution through the assignment, how is that judgment affected? Do you mean that the judgment cannot touch that property?

Mr. BELZILE: The property is automatically vested in the trustee.

Mr. RICHARD (*Gloucester*): If he acquires other property after the distribution made in accordance with the assignment or by the proposal, where does that property come? Does it vest in the trustee?

The WITNESS: The debtor is discharged from his obligations.

Mr. QUELCH: But not by the Court.

Mr. CLEAVER: Can a debtor acquire any property in his own name before the discharge?

The VICE CHAIRMAN: He is not bankrupt under this heading, he is only insolvent. He can acquire property in his own name.

Mr. RICHARD (*Gloucester*): For instance, he may fall into property after making his distribution. If he does, what happens to that property?

The WITNESS: If the property comes into the hands of the trustee before the discharge of a bankrupt debtor then it is subject to be distributed to the creditors in the ordinary way.

Mr. RICHARD (*Gloucester*): Yes, but before he does. He only gets his discharge after a number of years.

The WITNESS: Before he gets his discharge his property is still available to meet the claims of his creditors.

Mr. FULFORD: Supposing a man decides to pay his creditors fifty cents on the dollar and then a short while after comes into an inheritance which makes it possible for him to pay seventy-five cents on the dollar? Now that twenty-five cents on the dollar, that added capital will be distributed amongst the creditors in spite of the fact it was not in the original proposal?

The WITNESS: In the case of a bankruptcy it would be true but not in the case of a proposal.

The VICE CHAIRMAN: Suppose there is a proposal to pay fifty cents on the dollar, say fifteen cents in the first year, fifteen cents in the second year and twenty cents in the third year and supposing the business of the debtor becomes good after the second year and he buys a house. This house will be a guarantee towards the payment of the last twenty cents, that is all.

The WITNESS: That is right.

The VICE CHAIRMAN: He will pay his twenty cents when it becomes due and the property will not be touched even if there is a judgment against him.

Mr. RICHARD (*Gloucester*): Yes, but this is a case in which the creditor does not agree. The debtor pays fifty cents on the dollar and he is discharged but he falls into property in the second year. Now I want to know is a judgment creditor wiped out?

The WITNESS: The answer is in section 36, sub-section (1) which outlines the only condition under which a proposal having been entered into and approved by the court can then be set aside.

Mr. MACDONNELL: There must be finality somewhere. If at any time before there is finality, before the final agreement has been given, property comes in, then if there was any injustice, if at any time property comes in before the final agreement is made and the discharge given, they presumably would not agree?

The VICE CHAIRMAN: No, Mr. Macdonnell. The agreement may come three years before the discharge. There may be an agreement approved by the court that he will pay in three instalments.

Mr. RICHARD (*Gloucester*): He may pay and before he gets his discharge from the court he acquires property. Can this property be taken?

The VICE-CHAIRMAN: This property cannot be touched except to guarantee payments under the agreement and the creditors cannot complain about it because they have accepted the property. Either the man who has a judgment accepted the proposal or he was bound by the acceptance of the special resolution.

The WITNESS: Perhaps, it might help if I put it this way. Suppose that I being a debtor and being in hard circumstances go to my creditor—I have only one creditor; I have only one debt—and I say to him, “I owe you \$500 and my financial situation is very very bad, and I can arrange to get only \$100 and it will cause me an awful lot of hardship even to get that, but if you will give me a clearance for my whole debt, I will repay you today \$100.” My creditor says “Fair enough” and we make a contract to that effect. Now, tomorrow, unexpectedly, I come into an inheritance of \$10,000. My creditor cannot come back to me and say, “Here, your circumstances are changed and I should get a better payment; I should be paid in full.” My creditor cannot do that; we have made a bargain. That is the same situation that applies here.

Mr. RICHARD (*Gloucester*): Well, in that case then the debtor who makes a proposal which is accepted is in a better position than a debtor who makes an assignment so far as after-acquired property is concerned because the debtor who makes a proposal which is accepted and approved may acquire property afterwards which is untouchable whilst the one who makes an assignment may pay the percentage, and then if he acquires property afterwards, before the discharge, that falls to the trustee?

The VICE-CHAIRMAN: That is right.

The WITNESS: But the creditors will appraise the probability of that happening.

Mr. RICHARD (*Gloucester*): They may not foresee it.

Mr. RILEY: It is a voluntary thing.

The VICE-CHAIRMAN: Shall clause 35 carry?

Carried.

Mr. MACDONNELL: With regard to that last point that Mr. Richard made, has it been fully probed—the difference between a bankrupt and a man who has made an assignment?

—Mr. Cleaver resumed the chair.

The WITNESS: The legal position is quite different. In the one case a man has made a contract and in the other case a man has come into court and handed over all his assets, but generally speaking your judgment creditor is in no higher position than a plain ordinary common creditor who has not acquired judgment.

Mr. RICHARD (*Gloucester*): That is in the case of a proposal but in the case of an assignment before discharge, and even after payment was made, would after-acquired property still be seizable?

Mr. LESAGE: In a proposal the creditors agree and in a bankruptcy they do not.

Mr. Quelch: In reaching an agreement on a proposal could a condition upon property being acquired at some future time be inserted; I mean could that point be covered or included in the agreement?

The CHAIRMAN: Oh, yes, any terms such as that could be included. Clause 36, Proceedings in Case of Default.

Mr. ISNOR: Are you changing the wording in 36 (3), Mr. MacDonald.

The WITNESS: No, there is no change there.

Mr. ISNOR: I think that was suggested by the chartered accountants.

Mr. LESAGE: It was adopted and it is in the text in line 27.

Mr. MACDONNELL: What is the meaning of the phrase in lines 3 and 4, clause 36, sub-section 1 "or where it appears to the court that the proposal cannot proceed without injustice or undue delay" and so on.

The WITNESS: That would cover, I would say, a case where entirely unforeseen circumstances came up making it impossible for the proposal to be proceeded with or to be proceeded with within a reasonable time.

Mr. MACDONNELL: You do not think some ingenious lawyer could suggest that property that comes in afterwards might be included?

Mr. LESAGE: Suppose there is an understanding between a debtor and a third party; for instance, suppose the third party is his father and says "I am going to give you a property for your family" and in reply the debtor says, "No, not now, I have a lot of creditors; I will make a proposal first; my creditors will agree and then you will give me the property." That would be fraud.

Mr. MACDONNELL: That seems to be a very good instance of what you call fraud, but what about injustice? That is a very broad term. It would seem an injustice to have the situation such as Mr. Richard has been setting out; would that be covered?

The WITNESS: I should hardly think it would because I should think that the justice or injustice of the proposal would have to relate to the circumstances when the proposal was agreed to. Now, that is just an expression of my opinion. As to the other words they would probably cover such a situation as this: The debtor came in and represented that in the very near future he was obtaining a lumbering contract or some other kind of a contract which was going to put him in means and put at his disposal funds to carry out the proposal and the actual getting of the contract was delayed and disappeared into the future. Now the court would say, "There is no reasonable prospect of you carrying out this proposal within a reasonable time and we will set the composition aside."

The CHAIRMAN: I would think, Mr. Richard, that your client would have a remedy if the debtor did not make full disclosure; if he knew there was money or property coming to him and he did not make full disclosure, I think that would be injustice. A concealment alone is not fraud. There must be something active.

Mr. MACDONNELL: That seems to me as if the court would take another look at the whole thing.

The CHAIRMAN: I do not see any harm in that clause. I think the court should have power. Do you see any harm in it?

Mr. MACDONNELL: I like the idea. But does it cover Mr. Richard's case which is a very important case.

Mr. RICHARD (*Gloucester*): The proposal has been accepted and at a later stage the court may decide they cannot proceed without injustice and they cannot come back; it is all afterwards, it is not at the time of the agreement. You see the whole thing where the proposal is made and accepted, or where it creates an injustice and so on you see, injustice is something which comes after the whole thing is accepted. Supposing the proposal has been accepted and you are going to be paid 10 percent every six months. All right, after six months the court finds that there has been a default in payment or there has been or will be an injustice if the proposal is continued; the court might then modify the proposal?

The WITNESS: It might set aside the proposal. The words of that section came from the present Act, and if you would care to leave the point with me I will check before the next meeting on the jurisprudence a sit applies to the word "injustice".

The CHAIRMAN: Shall the clause stand?

Stands.

Clause 37?

Mr. MACDONNELL: I do not understand section 37 very well; could I have it explained?

The WITNESS: Yes, sir. Suppose a situation like this: The debtor says, "I can undertake to pay you in three installments up to 60 per cent of your claim. There is one condition attached to that. I have no operating capital and I need a few hundred dollars, and in order to permit me to do that you will all have to contribute \$50 by way of operating capital to allow me to carry on"; and the creditors say, fair enough; and by the majority rule they adopt the proposal. One creditor can come in; then, that is an exception in one respect to the majority rule; he can come in and say, "not for me; I think it is just throwing good money after bad, I am going to stand on my present rights"; and in that case then the value of his claim will be fixed and he will be entitled to be paid in cash when the proposal is approved.

The CHAIRMAN: And the settlement to him being a cash settlement will be a write-down. He has contributed nothing to assist the debtor and if the other creditors go ahead and do that then they are going to say to this chap, "you did not do anything with us to assist him," and the court is going to rule that he would have to be content with 40 cents on the dollar.

The WITNESS: He would, that is so.

The CHAIRMAN: Shall clause 37 carry?

Carried.

Clause 38.

Mr. FOURNIER: Stands.

Section 39.

Mr. LESAGE: Before it is proceeded with, Mr. Chairman, could we go back to clause 25? Mr. Isnor is here now.

The CHAIRMAN: Yes, Mr. Isnor is in the committee now and we will revert to clause 25.

Mr. LAING: Mr. Chairman, there has been a proposal put forward by a number of groups suggesting that it would be improper to proceed with this bill

unless a similar change were made in the legislation regarding the Companies Creditors Arrangement Act. I wonder if Mr. MacDonald could tell us whether there is anything that could be done to meet this objection?

The WITNESS: Well that, sir, is rather a question of policy on which I doubt whether any expression of opinion from me would be proper or perhaps very helpful. The Companies Creditors Arrangement Act is not under the administration of my office, and I am rather reluctant to express an opinion as to whether or not at the present time my office should reach out to take in matters not presently within its scope.

Mr. MACDONNELL: You would rather somebody else answered that?

The WITNESS: Yes, sir. There was a great deal of debate in the Senate committee in 1946 upon the idea of bringing the Companies Creditors Arrangement Act under the bankruptcy office. When the bill was introduced in 1946 there was such a proposal in it, in Bill A5, and it was one of the controversial points that led to the bill dying in the Senate committee that year.

Mr. MACDONNELL: You could tell us, please, what the exact situation with regard to the Companies Creditors Arrangement Act is now, and in how many provinces it is actively in force?

The WITNESS: You mean, sir, is it actually in force in the sense that it is being used?

Mr. MACDONNELL: Yes.

The WITNESS: Well, no, I cannot give you that information offhand. We have no actual point of contact with that Act. As you know, the procedure under it is automatic. The only supervision is by the court. But I will make inquiry and see what information is available.

The CHAIRMAN: Section 25—Mr. Isnor:

Mr. ISNOR: I was going to submit an amendment for the consideration of the committee that farmers and fishermen should also be included under this section. I wonder what Mr. MacDonald has to say about that?

The WITNESS: Well, sir, with the opening of the field in the direction of primary industry, I do not know where you are going to stop. There was a suggestion—I do not know whether you were here at the time—but a few minutes ago the point was raised and one of the other members either proposed or said if that is extended to fishermen why not to any other primary producer. Now, the farmer is excluded, from a compulsory bankruptcy but not from a voluntary bankruptcy. There is of course, no corresponding provision affecting fishermen.

Mr. ISNOR: But the thought I had in mind, Mr. Chairman, was that the benefits of this Act might be extended to farmers and fishermen. There are times when it might be of advantage to the farmer if he could avail himself of the provisions, the benefits of this Act in connection with his business; and the same would apply to fishermen, as I think was pointed out in the committee yesterday.

Mr. LESAGE: It is not always an advantage to be included, it is sometimes a disadvantage.

Mr. RICHARD (*Gloucester*): Mr. Chairman, all these clauses refer to the receiver—clauses 21, 22, 23, 24 and 25. A receiver may be asked for by one or more creditors against any of these classes of people, excepting a farmer. It says, "Sections twenty-one to twenty-four do not apply to persons engaged solely in farming or the tillage of the soil or to any person who works for wages, salary, commission or hire at a rate of compensation not exceeding twenty-five hundred dollars per year and who does not on his own account carry on business." From that it will be apparent that the farmer does not fall into the class that a receiver may be asked for. That is what it amounts, is it not?

Mr. LESAGE: Why?

Mr. RICHARD (*Gloucester*): Well, he does not work for wages, salary, commission or hire—and so on. A receiver cannot be asked against him.

Mr. LESAGE: It is not a privilege anyway; it is a right that a man has to make an assignment.

Mr. RICHARD (*Gloucester*): This whole thing applies to the receiver.

Mr. BELZILE: Yes, this applies to petitions for a receiving order.

Mr. MACDONNELL: Yes, at the instance of the creditor.

Mr. RICHARD (*Gloucester*): Yes. He may not want to make an assignment or a composition; quite so. But still I do not see why it would not apply to a fisherman. I mean that a receiver could be applied for by his creditors, just as the same for any other business. He does not evade any responsibility under this clause.

Mr. LAING: I think what Mr. Isnor would like is a fishermen's creditors arrangement act. I have something on that line before me here. My point there is this, that I think a fishermen's creditors arrangement act would be desirable.

Mr. QUELCH: I do not think his point is clear. Does he want the fishermen to be excluded from this Act, along with farmers and persons not in business; or, does he want them included and does he want to include farmers and fishermen? As you know, the farmers are now in a position where they can take advantage of the Farmers Creditors Arrangement Act.

Mr. ISNOR: That is not quite my point. This clause defines only certain classes against whom the provisions of a creditors' petition shall apply. My question to Mr. MacDonald is as to whether this is a benefit or otherwise to the farmer.

The WITNESS: I would say it is a benefit to the farmer.

Mr. QUELCH: You say it is a benefit to the farmer because he is excluded from it; is that the point?

Mr. MACDONNELL: Mr. Quelch is very familiar with the Farmers Creditors Arrangement Act. I wonder if we could have a short explanation from him of the Farmers Creditors Arrangement Act, especially as to the protection it gives the debtor. I think it would be interesting for us to have some information on that point.

Mr. QUELCH: I think the important thing under that Act is that it permits the farmer to continue in operation. That, to my mind, is the important benefit.

Mr. MACDONNELL: Under the Farmers Creditors Arrangement Act it is entirely a matter of his own decision if he goes into bankruptcy.

Mr. QUELCH: Oh yes, the application is not made by the creditor, it must be made by the farmer.

The CHAIRMAN: And does that not apply only to the three western provinces?

Mr. LESAGE: No.

Mr. QUELCH: My understanding of it at the moment is that it does not apply in Ontario or Quebec.

Mr. LESAGE: That is right.

Mr. QUELCH: There was great activity under it during the war, particularly, but—

Mr. MACDONNELL: Before they all became rich.

Mr. QUELCH: —until they became solvent. Farmers have the protection that their homesteads cannot be sold. They are protected to that extent at least.

Mr. RICHARD (*Gloucester*): Well, Mr. Chairman, I am still not clear on the point. Anyone, except those in the excepted class, farmers or those whose wages are under \$2,500 may be petitioned into bankruptcy but the farmer is in a situation where he does not fall under the section no matter if he earns only \$500 a year. He does not earn it by hire or by commission and therefore he may be petitioned into bankruptcy.

The WITNESS: He may not be petitioned into bankruptcy under the Bankruptcy Act.

Mr. BELZILE: Clause 21 relates to the petition for receiving orders.

Mr. LAING: Is this exception put in because of the Farmers' Creditors' Arrangement Act?

The WITNESS: No.

Mr. LAING: Was the Farmers' Creditors' Arrangement Act brought about because of this section in the Bankruptcy Act? It is like asking which came first, the chicken or the egg?

The WITNESS: I do not think that was the case either.

Mr. LAING: I was going to say, in the case of fishermen, that if there is to be a special act introduced such as a fishermen's creditors' arrangement act we could let this stand until such time as the act is introduced.

Mr. ISNOR: I do not think it has any connection. At some future time, if we are able to arrange for fishermen to enjoy the same situation as the farmers enjoy because of their Farmers' Creditors' Arrangement Act then, of course, we can deal with the matter at that time. In the meantime, if there is any benefit to be derived by fishermen if they are included then I feel that they should be included in this particular section.

The CHAIRMAN: I wonder if we could have any indication of whether we are talking of a practical problem of any size or whether it is a theoretical problem? How many fishermen have been thrown into bankruptcy in the last five years?

Mr. ISNOR: I could ask the same question—how many farmers were thrown into bankruptcy in the last five years?

The CHAIRMAN: None.

Mr. ISNOR: Then there is no harm in including fishermen.

Mr. LESAGE: I can give you a practical example of what would happen in the case of fishermen.

Mr. ISNOR: Tell me what would happen in the case of a farmer?

Mr. LESAGE: If you do not mind, I will continue. Supposing a fisherman has debts and judgments against him are granted, the creditors cannot petition against him in bankruptcy and so they execute their judgments against him. He is wiped out completely and he cannot later acquire any property because it will be seized again and again, the judgments having been only partly satisfied. The man can never be free. If he is put into bankruptcy his creditors can petition for so many cents on the dollar and then he may apply for discharge and start anew. He will not be able to do that if he is seized against time and again. I see an advantage for fishermen not to be included in the exception.

Mr. RICHARD (*Gloucester*): Not to be included in the exception?

Mr. LESAGE: Yes.

Mr. RICHARD (*Gloucester*): All right, you may have ten creditors of a fisherman who earns \$1,500 a year.

Mr. LESAGE: Yes.

Mr. RICHARD (*Gloucester*): One may petition him into bankruptcy.

Mr. LESAGE: Yes.

Mr. RICHARD (*Gloucester*): But you cannot beat the farmer that way nor the fellow that earns less than \$2,500. Therefore a fisherman who may only earn \$1,500 has not the protection of a worker who earns \$1,500 nor is he in the position of the farmer.

Mr. LESAGE: No. The farm may be seized. But if it is seized as in the example I was giving as to fishermen, then he can go under the other law, and that is a protection that the fisherman would not have, unless we pass a special law for a fisherman's arrangement act.

Mr. ISNOR: I wonder if Mr. MacDonald is prepared to answer my question?

The CHAIRMAN: Mr. MacDonald does not care to comment on parts which do not come under his jurisdiction. I do not think he should be censured in any way for taking that stand. I think it is a quite proper stand to take. He is superintendent of bankruptcy, period.

Mr. ISNOR: Recognizing Mr. MacDonald's ability, I would be the last one in the world to try to embarrass him in his position other than when dealing with this Act.

The CHAIRMAN: Well then, would you ask your question and direct it to Mr. MacDonald.

By Mr. Isnor:

Q. I want to know whether Mr. MacDonald thinks it is an advantage to the farmer that is covered in section 25?—A. Well, I would like, subject to the approval of the chairman, to reserve that question for the moment and give my answer at the next meeting. My reason is that there is a point that I am not quite satisfied about as to the application of the Farmers' Creditors' Arrangement Act. I believe Mr. Quelch said a moment ago that the farmer could not be petitioned into bankruptcy under that Act. That was my impression. Now, I have the further impression—but I may be wrong—that our records will show that, rightly or wrongly, farmers have been petitioned into bankruptcy, so I just want to check on that point. But I shall be prepared to give you an answer at the next meeting of the committee.

By Mr. Macdonnell:

Q. You may petition a farmer into bankruptcy but you may not petition him under the Farmers Creditors Arrangement Act.—A. Petition him into bankruptcy in relation to the Farmers' Creditors' Arrangement Act? That is the point I want to look up.

By Mr. Richard (Gloucester):

Q. Under the old Bankruptcy Act, was the farmer excepted as he is here and now?—A. Yes. This section was in the old Act.

Mr. QUELCH: The difficulty in dealing with the question of farmers is the fact that during the depression years in western Canada we had a great deal of provincial debt legislation which tends to confuse the issue. But I am under the impression that no creditor can petition a farmer into bankruptcy under the Farmers' Creditors' Arrangement Act. I think that I would agree with Mr. Isnor, that fishermen would be better off if they were excluded from the bankruptcy act. Moreover, in a bankruptcy proceeding, the very time that a farmer might be forced into bankruptcy would be during a depression. I believe that ninety-nine times out of a hundred that would be true. And the result would be that if the farmer had to dispose of his assets at that time, he would get practically nothing for them. The farmer is a man who is able to make a very quick comeback. Many farmers who were in distress during the depression years are now

considered wealthy men. A few good years can revive a farmer so that he is in a good position. The farmer would not want to be forced into bankruptcy during a time of depression. He would like to continue until prices improve when he would have a chance to pay off his creditors. And I can say that generally speaking the creditors have been reasonable and have voluntarily agreed to accept so many cents on the dollar. That would be done under a private agreement between the farmer and the creditor. I know it has happened many times. Just so long as the farmer cannot be forced into bankruptcy, he at least has that bargaining power.

The CHAIRMAN: But the farm could be seized under execution.

Mr. QUELCH: That is quite true. The creditors have the power to force, if not under the Farmers' Creditors' Arrangement Act, by threatening that if he does not pay, they will sue.

The CHAIRMAN: The clause stands then until Mr. MacDonald has an opportunity to consider the matter. We are now at clause 39. That is part of the Act, "Property of bankrupt."

It has just been called to my attention that it is ten minutes to one. We will adjourn now and meet Tuesday morning at 11:30 a.m. if that is satisfactory to the committee.

Mr. FULFORD: There is a notice that there will be a meeting this afternoon.

The CHAIRMAN: We will disregard that.

Mr. FOURNIER: Before we adjourned yesterday I asked Mr. MacDonald some questions but unfortunately I had to attend the sitting of other committees and I do not know whether those questions were answered.

The CHAIRMAN: I believe they were, Mr. Fournier, and by Tuesday I hope the committee proceedings will be printed and you will have your answers.

HOUSE OF COMMONS

1949

SECOND SESSION

STANDING COMMITTEE

ON

BANKING AND COMMERCE

Bill No. 149 (Letter F of the Senate) An Act Respecting
Bankruptcy

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

TUESDAY, NOVEMBER 29, 1949

WITNESS

T. D. MacDonald, Esq., K.C., Superintendent of Bankruptcy,
Department of Justice, Ottawa.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., LL.B.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949



CORRIGENDA

Page 5, line 5, delete "Huges" and substitute "Hughes";

Page 6, line 4, delete "Huges" and substitute "Hughes";

Page 6, lines 11, 12, 13, delete "Insurance" and substitute "Bankruptcy";

Page 6, line 29, in blank space after word "page" insert "19".

MINUTES OF PROCEEDINGS

HOUSE OF COMMONS,
TUESDAY, 29th November, 1949.

The Standing Committee on Banking and Commerce met this day at 11.30 a.m. The Chairman, Mr. Hughes Cleaver, presided.

Members present: Messrs. Ashbourne, Belzile, Cleaver, Dumas, Fleming, Fraser, Fulford, Gour (*Russell*), Hellyer, Isnor, Lesage (*Vice-Chairman*), Macdonnell, Macnaughton, Prudham, Quelch, Richard (*Gloucester*), Stewart (*Winnipeg North*), Weaver.—18.

In attendance: Messrs. T. D. MacDonald, Superintendent of Bankruptcy and J. S. Larose, office of Superintendent of Bankruptcy.

The Chairman read a telegram from F. D. Tolchard, General Manager, Board of Trade of City of Toronto.

(For text of telegram, See Evidence, at page ———).

The Chairman announced the receipt of letters from some of those to whom he had addressed the letter of 24th November, as authorized by the Committee. It was agreed that these letters be printed as appendices to this day's minutes of proceedings and evidence.

The Committee resumed consideration of Bill No. 149, An Act respecting Bankruptcy.

The following clauses were carried, subject to reconsideration later at request of any member: 39 to 48, both inclusive; 50 and 51. The following clauses stand: 49, 52 and 53.

On summons to the House, the Committee adjourned at 12.30 p.m., to meet again this day at 3.30 p.m.

AFTERNOON SESSION

The Committee resumed at 4.00 p.m. The Chairman, Mr. Hughes Cleaver, presided.

Members present: Messrs. Ashbourne, Beaudry, Belzile, Breithaupt, Cleaver, Dumas, Fournier, (*Maisonnette-Rosemont*), Fraser, Fulford, Fulton, Gour (*Russell*), Hellyer, Hunter, Isnor, Laing, Lesage (*Vice-Chairman*), Picard, Prudham, Quelch, Richard (*Gloucester*), Smith (*York North*), Stewart (*Winnipeg North*).—22.

In attendance: As at morning session.

Consideration resumed of Bill No. 149.

The following clauses were carried, subject to reconsideration later at request of any member: 54 to 93, both inclusive. The following clauses stand: 94 and 95.

The Committee adjourned at 5.30 p.m., to meet again tomorrow, Wednesday, 30th November at 11.30 a.m.

T. L. McEVOY,
Clerk of the Committee.

EVIDENCE

HOUSE OF COMMONS,
November 29, 1949.

The Standing Committee on Banking and Commerce met this day at 11.30 a.m. The Chairman, Mr. Hughes Cleaver, presided.

Mr. T. D. MacDonald, K.C., Superintendent of Bankruptcy, recalled:

The CHAIRMAN: Gentlemen, we have a quorum. Before proceeding with the work of the committee I would just like to report that, pursuant to instructions received from the steering committee, a letter was dispatched to all those who had taken the trouble to make representations to the Senate while this bill was under consideration by the Senate. In that letter I asked any who wished to attend personally to give evidence to advise us by wire, and any who wished either to add to or to underline the representations which they had already made, to write. I may say that I have received only one wire. It is very short and I shall read it. It is from Mr. F. D. Tolchard, General Manager of the Toronto Board of Trade, and it reads:

Your letter twenty fourth bankruptcy bill this Board and associated interests most anxious Senate Bill F be passed at present session of House notwithstanding Senate committee did not accept all amendments desired stop Sending McEvoy our latest submission to Senate committee with memorandum showing action taken on amendments requested stop If House committee can consider these desired amendments and would like oral evidence without endangering passing of Bill at present session this Board will be glad to arrange for representatives to appear before committee at any convenient time stop Desire to emphasize however importance of passage of Bill at present session and would respectfully urge that Banking and Commerce Committee do nothing which would delay enactment of Bill.

F. D. TOLCHARD,
General Manager, Toronto Board of Trade.

(For text of letters, etc. see appendices to this number.)

Is it the wish of the committee that we should add this wire and correspondence to our committee report this day, so that all members of the committee will have copies?

Mr. BELZILE: I so move.

Mr. STEWART: Does that include the proposed amendments?

The CHAIRMAN: No, it does not. It includes the memorandum of their request and all that has happened to it. Their brief is already in print in the Senate record, and their brief is an exact copy of the one already tabled. We are at clause 39, part IV of the Act, "Property of the Bankrupt".

Mr. QUELCH: Was clause 25 carried?

The CHAIRMAN: Clause 25 was carried but the understanding was that any member could refer back to it.

Mr. QUELCH: I thought we were at clause 25 at the end of the last meeting, and that we were considering clause 25 when we adjourned.

The CHAIRMAN: Clause 25 was marked "stand".

Mr. QUELCH: We were considering it.

The CHAIRMAN: Yes, and the Superintendent of Bankruptcy was going to make some inquiries. And now, as to clause 39, are there any questions?

By Mr. Richard (Gloucester):

Q. I would like to ask Mr. MacDonald in respect to subclause (c) of clause 39, "All property wherever situate of the bankrupt at the date of his bankruptcy or that may be acquired by or devolve on him before his discharge;" In the period between a trustee's discharge and the discharge of the bankrupt, should any property devolve upon him, then in whom does it vest? I take it that it is still available for creditors, and that there is no more discharge; he has been discharged.—A. That property is amenable to the trustee; it is available if it is gone after, for distribution to the creditors.

Q. But the trustee may be discharged.

Mr. BELZILE: He has five years to go on. His appointment is good for five years after his discharge.

By Mr. Richard (Gloucester):

Q. He may apply for discharge after distribution of whatever assets are in his hands.—A. The trustee may be brought back to deal with it.

Q. He may be reappointed again? That property was available for creditors, judgment creditors, as well as ordinary creditors. Where does the statute of limitations come in there? Would the judgment creditor be in the same category as the ordinary creditor, or would he have a debt which is good for twenty years?—A. The limitation period would not run there.

Q. Why would it not? If it starts to run, there is nothing to stop it. Bankruptcy does not stop it.—A. My impression is that the limitation period does not run during the bankruptcy.

Q. You understand by point. A man makes an assignment, and whatever assets he has are distributed by a trustee; then afterwards he comes into property again; that property is available to creditors. Now, some of those creditors may be ordinary creditors and their claim may be barred by the Statute of Limitations. But with a judgment creditor, his claim is good for twenty years.

Mr. LESAGE: The assignment stops the period. I could answer in French very easily, but I do not understand the technical terms in English.

Mr. RICHARD: (*Gloucester*): The Statute of Limitations starts from the time the debt is due, and I do not think it stops, and I do not think there is a gap there.

Mr. LESAGE: There is no interruption in the case of a judgement, because that judgement is good for twenty or thirty years. But if it is an ordinary debt, let us say a commercial debt, it is good for five years in the province of Quebec, and those five years will start to run from the date of the discharge of the trustee.

Mr. RICHARD: (*Gloucester*): But if it has started to run already, it continues to run.

Mr. LESAGE: No. It stops it and you must start it to run all over again. It is an acknowledgment.

The CHAIRMAN: Clause 40 "Stay of Proceedings". That is a stay of proceedings from the filing of a proposal, and so on.

Mr. RICHARD (*Gloucester*): Well, that might be so, if he has no remedy.

The CHAIRMAN: Yes.

By the Chairman:

Q. Mr. MacDonald, I have a question to ask under this clause. Would this be an appropriate clause under which to define property of the debtors? You remember that that point arose when we were considering the right of a trustee to pledge the assets of a debtor, the property of a debtor, for the purpose of carrying on the business of the debtor.

Mr. MACDONNELL: What clause is that, Mr. Chairman?

The CHAIRMAN: What was the clause of the Act where we ran into the right of a trustee to pledge the property of a debtor for the purpose of carrying on the business? Oh, it was clause 10.

The WITNESS: Clause 10, subclause (1) para. (g).

By the Chairman:

Q. You have also referred me to clause 2 subclause (o). Now, do you not think for the purpose of clarity it might not be wise to add a few words indicating "assets include any property rights of the secured creditors"?—A. Oh, I see. I am afraid that I did not quite catch the point before. I think this question was raised also by Mr. Macdonnell at the first or second meeting.

Q. That is right.—A. I have looked at it again. I have a note here which I shall read into the record. Paragraph (g) appears to be all right, because a secured creditor does not make a claim unless he relinquishes his security or unless it is for the excess of his account over the value of the security; and in either such event he is then as an ordinary creditor. You see, (g) speaks about this commitment being paid with interest out of the property of the bankrupt in priority to the "claims" of the creditors. In so far as he relies upon his security, the secured creditor will not have a claim in there, so he will not be affected. He will never have a claim in unless he is either relinquishing his security, or is claiming for the excess of his account over the value of his security. And in either of those cases he should of course be affected. So my feeling would be that the paragraph is appropriate as it is now worded.

Mr. MACDONNELL: I must say that I would not question what the witness has said. It is a very interesting point. But I should have thought it might have been made clearer because it does seem to me that if (g) is right, it would not need a very ingenious lawyer to take a different view. In other words, the word "claims"—I am not ignoring the definition of "claims" in clause 2, which I think supports what I think you have said; yet I suggest it is not very clear in subclause (g).

Mr. RICHARD: (*Gloucester*): If it is an unsecured creditor, would it be made clearer to say "inquire into the claims of"?

Mr. MACDONNELL: No, because Mr. MacDonald says that part of the claims will be claims of secured creditors to the extent that they are over and above their security.

The WITNESS: I certainly do not want to be insistent on that point and if it were merely a question of clarification I should be inclined to say immediately "Yes, accede," but the misgiving I have is this: that wording is in the present Act, in section 51, sub-section (1) and it never gave rise to any such suggestion. Now if we go reinforcing it in individual clauses it may be that we will find a clause later which we have unknowingly affected by implication.

Mr. MACDONNELL: That is a very strong argument.

The CHAIRMAN: Shall clause 39 carry?

Carried.

Clause 40?

Mr. MACDONNELL: Do you think it would be a waste of time in case there might be anyone else who might not have read these clauses as carefully as he

would like, to have them read as we come to them? I do not press for it, I just suggest it.

The CHAIRMAN: I perhaps would be prejudiced against the suggestion on account of self interest,—I might be elected to do the reading.

Mr. FLEMING: Mr. Chairman, there were some suggestions on this clause. I see by the compendium the Bar of Quebec requested clarification but their suggestion was not adopted it being felt that the addition of the words "Until the trustee has been discharged" in sub-clause (1) of clause 40 is sufficient. Then the Toronto Board of Trade, David Grobstein and Richard Beaudry made a suggestion and it was adopted. Mr. Justice Urquhart suggested that the words "Until the trustee has been discharged" should be deleted. Mr. Justice Urquhart of the Supreme Court of Ontario in the letter we received from him this morning indicated that he was interested in one particular clause above all others. Is this the one?

The CHAIRMAN: No, the point Mr. Justice Urquhart is interested in, as I understand his letter, is that he feels the present Bill should contain a declaration, should provide machinery for an order declaring the man bankrupt and his reason was that certain other acts of parliament would not come into play unless the man is officially declared a bankrupt, and he illustrated that point by referring to two or three sections of the Criminal Code where a man commits an offence if, while a bankrupt, he secures credit without advising his creditors that he is an undischarged bankrupt and so on. And when we come to that point I think Mr. Justice Urquhart's recommendation should be rather carefully considered by this committee.

Mr. FLEMING: That was on clause 21, subclause (6) and clause 41 subclause (6)?

The CHAIRMAN: Yes.

Mr. FLEMING: I just looked quickly over that letter this morning. I do not recall whether or not that was the main point he was stressing.

The CHAIRMAN: That was the main point he was stressing and I think he has something there. On clause 40, subclause (1) the Senate accepted and adopted the recommendation of the Toronto Board of Trade.

Mr. FLEMING: That was to insert the word "approval" instead of the word "filing" (of a proposal).

The CHAIRMAN: Shall clause 40 carry?

Carried.

Clause 41?

Carried.

Clause 42?

Carried.

Clause 43?

Carried.

Clause 44?

Carried.

Clause 45?

Carried.

Clause 46?

Carried.

Mr. FLEMING: On clause 46,—what is the significance of what the Toronto Board of Trade wanted with regard to clauses 71, 72, and 73? Their suggestion was not adopted, I understand.

The WITNESS: There are certain sections in the present act which are similar I believe, to sections also contained in the Winding-up Act providing for directions to be given by the court affecting the mutual rights of contributors of this class, and it was felt in drafting the Bill that those sections were not necessary, and that, I believe, is the point against which the Toronto Board of Trade made its representations.

The CHAIRMAN: What were the clauses of the old Act that were left out?

The WITNESS: Section 70, subsection (3) and subsection (4).

Mr. FLEMING: And clauses 71, 72 and 73 have been dropped too, I believe.

The WITNESS: I am sorry, the ones that are affected by what I have just said are not subsection (3) and (4), the sense of which has been carried with very little change into the new clause 46. They are rather sections 71, 72 and 73. Section 71 commences:

(1) The trustee may from time to time make demand on any contributory requiring him to pay to the trustee within thirty days from and after the date of the service of such demand, the amount for which such person is so liable to contribute or such portion thereof as the trustee deems necessary or expedient

and then skipping subsection (2), subsection (3) provides that:

"If the contributory disputes liability, either in whole or in part,"

and it goes on to explain what he must do in a case like that and section 72 provides that:

(1) The court shall, on the application of any contributory, adjust the rights of the contributories among themselves, and, for the purpose of facilitating such adjustment may direct the trustee to intervene, carry the proceedings,

and so forth. I think that the gist of it is probably contained in the last part I have read, the part about the application to adjust the rights of the contributories among themselves.

The CHAIRMAN: I think perhaps, the Toronto Board of Trade on reading the new Bill must be satisfied because in their last presentation they do not raise any question at all in regard to this clause 46.

Clause 46?

Carried.

Clause 47?

Carried.

Clause 48?

Carried.

Clause 49? With reference to clause 49 the Toronto Board of Trade makes the suggestion that the trustee should be affirmatively placed under some responsibility to inspect the fixtures and what-not and if there are any name plates on the fixtures even though no registered lien has been filed, that proper notices should be sent out to the addresses on these name plates. Have you had any complaint, Mr. MacDonald, of hardships rising through trustees disposing of assets of that nature? In Ontario we have our Conditional Sales Act—

The WITNESS: I am not aware of any such complaints, Mr. Chairman.

The CHAIRMAN: It would appear to me that that would be putting a trustee to a tremendous amount of extra work. Surely these people would contact the trustees on the notice of bankruptcy being published.

The WITNESS: And they have the privilege of registering their liens.

The CHAIRMAN: Do you want to press that recommendation, Mr. Fleming?

Mr. FLEMING: I would like to consider it further, Mr. Chairman, to tell you frankly.

The CHAIRMAN: Under all these conditional sales agreements there are usually monthly payments involved and on default the suppliers or manufacturers immediately give a notice.

Mr. FLEMING: I notice this recommendation we are referring to now is from the Canadian Manufacturers' Association, not the Toronto Board of Trade. It is the same one that is referred to in the compendium prepared by Mr. MacDonald. The association wanted the word "unregistered" deleted and replaced by the words "not registered or not protected against creditors under the law of the province." Now I take it the intended purport of the two drafts is about the same but the suggestion in Mr. MacDonald's compendium is that the proposed amendment is not considered necessary.

The CHAIRMAN: Well, Mr. Fleming, I think too there is another point which can be quickly grasped. You see, if a trustee in good faith goes ahead and sells some of this property on which there is a claim under the Conditional Sales Act there may be an amendment asked for, or the estate may be liable to damage, and that sort of thing.

Mr. FLEMING: I am not sure at the moment.

The CHAIRMAN: Well, who is better able to decide negligence than the court. You see, if we attempt to set out what negligence is we will run into all kinds of difficulty.

Mr. HUNTER: I am not suggesting that. I am suggesting that we must define the principle.

Mr. FLEMING: Mr. Chairman, with all respect, I think there is actually a way out of this suggested by the Canadian Manufacturers Association in their letter which has just been handed to me, and it is this:

It is suggested that in the sixth line of Section 49 the word "unregistered" be deleted, and after the word "charge" in the same line, the following words be inserted:—"not registered or not protected against creditors under the law of the province." The reason for this is that some provinces such as Ontario, permit liens on manufactured goods to continue valid without registration provided that the name and address of the vendor are marked thereon. With respect to property which is subject to a valid but unregistered lien, under the present wording of the section, the trustee is not personally liable for any loss or damage. This cuts down the rights of lienholders holding such liens. A competent trustee would be familiar with the Conditional Sales Act of his province, and should take notice of all liens which are properly protected. It may be that in such provinces, the trustee will be put to considerable trouble in making the necessary inquiry but this is preferable to valid lienholders being deprived of their rights as secured creditors and reduced to the status of ordinary creditors.

It strikes me there is a great deal of merit in that proposal.

The CHAIRMAN: The secured creditor still has the right to go to the court and ask the court to rule that a trustee has been negligent, and in a province where there is a Conditional Sales Act and where the manufacturer has complied with the requirements of the Act by putting his name plate on, I would think the court would be the best tribunal to decide whether there was negligence or not on the part of the trustee.

Mr. MACDONNELL: The subclause says.

unless the court is of opinion that the trustee has been guilty of negligence with respect to the property—.

Isn't that it?

The CHAIRMAN: I get your point, Mr. Macdonnell. I think that is covered by what you just referred to,

unless the court is of opinion that the trustee has been guilty of negligence with respect to the property;

That means with respect to his disposal of the property.

Mr. FLEMING: I would suggest that the clause should stand for further consideration.

Clause 49 stands.

Mr. FLEMING: There is a matter of negligence, which I think is deserving of consideration.

The CHAIRMAN: Clause 50:

Mr. RICHARD (*Gloucester*): Subclause 3, "The onus of establishing a claim to or in property under this section is on the claimant"; does not mean the property?

The CHAIRMAN: That refers to the position of the bankrupt at the time of the bankruptcy. If the property is in the possession of the bankrupt he has a right to prove his ownership; he must under this clause prove his ownership.

Mr. LESAGE: I think that subclause can only be taken to mean that the burden of proof with respect to the claim is on the creditor, the claimant.

The WITNESS: I think Mr. Lesage has made the answer. The general principle is that the burden is on the person claiming property in the possession of another.

Mr. MACDONNELL: Well, what is the meaning of the last subclause; "Nothing in this section shall be construed as extending the rights of any person other than the trustee".

The CHAIRMAN: I suppose, Mr. Macdonnell, it extends the rights of the trustee in that it puts the onus on these other folk to prove their title in respect of property in the possession of the bankrupt.

Mr. FLEMING: In subclause 4, the original period for proving a claim was thirty days. I note that Mr. Justice Urquhart suggests that power be given to the court to shorten the thirty-day period; and what was done in the Senate, I gather, was to shorten the thirty-day period to fifteen days. I wonder if fifteen days is going to be too short in some cases. You might easily have a creditor in these circumstances not available. He may be away some considerable distance. He may be, in the fall of the year, up in the north country shooting. Fifteen days is a pretty short period in a big country like this. It would seem to me it would be very much preferable to leave the period of thirty days and give the court the power to shorten it to some lesser number of days if a proper case is made out for shortening it.

The WITNESS: My impression is that that would be personal notice, or such substituted notice as to the court would seem fair.

Mr. MACDONNELL: Anyway, your fifteen days is not a very long period.

Mr. FLEMING: It might turn out that the creditor would not know anything about it until too late to make an application.

Mr. STEWART: Take Mr. Fleming's argument. Suppose a creditor were to leave, let us say, on a two-weeks' holiday and the notice was sent to him the day after he left, then it may happen that he actually would not return to the city until the term of notice within which to file his claim would have expired.

Mr. BELZILE: Any creditor is always entitled to file his claim whether it is fifteen days or one month. All this clause 50 is intended to do is to protect the trustee against the negligence put against him in clause 49; so that if the

trustee does not receive the claim at the end of thirty days or fifteen days as stipulated here he is protected; but the creditor is always entitled to file his claim and prove it.

Mr. FLEMING: We all know that procedure is inclined to be slow. That is one of the reasons for introducing the summary provision section of this bill. I think we are all in sympathy with this idea of more expedition in the handling of bankruptcy matters. I think that is one of the reasons for the suggestion to which I referred in this compendium, that the period be shortened from thirty days to fifteen days. Now, I do not know whether that is the way to handle this. If there is any reason for giving a claimant more than fifteen days well, then, a court should make an order covering that.

The CHAIRMAN: The Toronto Board of Trade proposed that and Mr. Justice Urquhart; and if you will refer to the Senate hearing of March 14 with respect to clause 50, subclause 2—page 18, you will find that it points out there that the period of thirty days is too long in both this subclause and in subclause 4.

Mr. FLEMING: But the suggestion there was that the court could shorten the period of thirty days. However, the time has been shortened to fifteen days; and the note on subclause 4 is:

Suggested by Mr. Justice Urquhart that thirty days is too long.

As far as I am concerned, Mr. Chairman, I would like to take this point up again later on.

The CHAIRMAN: All right, we will refer back to it later.

Mr. STEWART: Would it not be possible to change the procedure outlined in subclause 4, and instead of having the notice sent by mail have it made personally?

Mr. LESAGE: When you leave service of notice to receipt you open the door wide to possibilities for discussions of all kinds. All he has to say is that he didn't receive such a notice.

The CHAIRMAN: I have just checked that with Mr. MacDonald and in his opinion the notice required to be given by the trustee to the preferred claimant under subclause 4 would be a personal notice. Now, the man gets personal notice, surely fifteen days is ample time for him; and, of course, if he is away on a hunting trip or, out of town, he cannot be served.

Mr. RICHARD (*Gloucester*): What happens if you cannot effect personal service?

The CHAIRMAN: You would have to go to the court for an order for substitutional service.

Mr. RICHARD (*Gloucester*): If it means personal service, then the claimant is protected.

The CHAIRMAN: Subclause 4 requires personal service, or a court order for substitutional service, and surely the court would give proper protection when making an order for substitutional service and, if the man is personally served, fifteen days is ample time.

The WITNESS: Specific directions could also be contained in the rules as to the mode of service.

The CHAIRMAN: We will mark clause 50 carried, subject to reference back if anyone wishes.

Clause 51?

By Mr. Macdonnell:

Q. I would like to ask a question here. Is it meant that ample notice has to be given to the manufacturer before the powers under clause 51(1) are

exercised?—A. The burden seems to be placed upon the manufacturer or vendor, Mr. Macdonnell, to find out and make objection himself. I do not read into the clause that it is placing an obligation on the trustee to notify the manufacturer beforehand.

Q. I would not think that there is any obligation at all, but is it reasonable to assume that the manufacturer will know of this?—A. The only reply I can make at the moment is that the point has never been raised as creating any hardship. When I say that from time to time, I want to make it clear that I am not putting it forward as a general answer to all of these matters, because sometimes it is no answer. It is never too late to criticize a clause, but it is a fact, as I have said, that the point has never been raised as creating any hardship.

Q. That is not such a bad answer; we do not want to change things that work.

The CHAIRMAN: Shall the clause carry?

Carried.

It has been agreed that clauses 52 and 53 should stand, and I will now call clause 54, dealing with partnership property.

By Mr. Macdonnell:

Q. I do not understand the significance of subclause 1?—A. Are you referring to the case of the limited partnership?

Q. Is this an answer to some legal cause of danger that is apprehended?—A. It is an answer to some danger that might be apprehended when considering the difference between the limited and ordinary partnership. In the case of the limited partnership the rights and obligations of one or more of the partners may be subject to special conditions. If all of the general partners of the partnership become bankrupt the property of the limited partnership is available to the creditors, whereas, if it were another kind of partnership, my impression is that to realize the partnership assets you would have to proceed against all the partners. Perhaps I have put that in a rather roundabout way. If you are dealing with a limited partnership you get the partnership assets into the hands of the trustee by proceeding against all general partners—not all partners, as in the case of the ordinary partnership.

By Mr. Lesage:

Q. What is a limited partnership?—A. A limited partnership is a partnership in which the relations of one or more of the partners to the others are governed by special arrangement—for example that he is only a contributory for a certain amount, or that he is only a beneficiary to a certain amount. Suppose that A and B want to form a partnership in a trading venture; they go to C telling him that they have not quite enough money and ask whether he will go in with them. C may say that he has his own business to take care of and that he cannot go into the partnership as a full time venture but that he is interested and will contribute so much money. He may further specify that his liability is limited in the same way. He says that he will take a lower proportion of the partnership earnings than the other two partners, as a result.

Q. Are not the partners of a limited partnership responsible severally and completely towards all third parties?—A. Not necessarily. For instance, if I do business with a partnership consisting of A, B and C, and if I know that the basis on which they hold themselves out as doing business is that A and B are in the business completely but their agreement with C is that he is only liable to the extent of his contribution, and, if that is the basis upon which I do business with them, and if that understanding is part of my contract, then I have no recourse beyond that understanding. I am not prepared to tell you at the moment how constructive notice of that situation may be brought home to a creditor.

By Mr. Richard (Gloucester):

Q. Partnerships must be registered and the registration would show that C has a limited liability?—A. That is one of the circumstances, Mr. Richard, but there are others.

Q. In our province if such a limitation were not shown in the register the partners would be deemed to be general partners.—A. Certainly no private reservations between partners can affect people with whom the partnership does business.

Q. In my province the details of the partnership must be gazetted so that everyone would be given notice that C had only limited liability.

Mr. LESAGE: That is true, but towards third parties the responsibility is always joint.

Mr. BELZILE: In the province of Quebec we have some kinds of partnership which we call commandit. In the commandit the commandateur puts up the money—for instance \$10,000—and the other partner gives his full time to the partnership. After a while it sometimes happens that the administrator is the only man who works the business.

Mr. FLEMING: That is precisely the same as the limited partnership arrangement not only in Ontario but I think in all other common law provinces. If a partner wishes to limit his liability he must register.

The CHAIRMAN: Gentlemen, I hear the division bells ringing. We shall adjourn until 3.30 p.m.

AFTERNOON SESSION

—The Committee resumed at 4 p.m.

The CHAIRMAN: We have a quorum. We were on clause 54. Have you any comments to make on the clause "Application to limited partnership"? Shall the clause carry?—A. No, Mr. Chairman.

Carried.

Shall clause 55 "Sales in Quebec" carry?

Mr. BELZILE: No change.

The CHAIRMAN: Carried. Shall clause 56 carry?

Mr. BELZILE: No change.

The CHAIRMAN: Carried. Shall clause 57 carry?

Carried.

Shall clause 58 carry?

Mr. LESAGE: No change.

The CHAIRMAN: Carried. Shall clause 59 carry?

Mr. LESAGE: No change and no representations.

The CHAIRMAN: Carried. Shall clause 60 carry?

By Mr. Belzile:

Q. What is this settlement? Is it a marriage contract?—A. A settlement may be a marriage contract. Clause 61 refers specifically to marriage contracts. Marriage settlement is referred to in clause 60, subclause (3).

By Mr. Lesage:

Q. Yes, "before and in consideration of marriage;" that would be a marriage contract.

A. In paragraph (a).

Q. Yes.

The CHAIRMAN: Does clause 60 carry?

Carried.

Does clause 61 carry?

Carried.

Does clause 62 carry?

Carried.

Does clause 63 carry?—What does that mean, Mr. MacDonald?

The WITNESS: Clause 63:

63 (1) Where a person engaged in any trade or business makes an assignment of his existing or future book debts or any class or part thereof and subsequently becomes bankrupt, the assignment of book debts is void against the trustee as regards any book debts that have not been paid at the date of the bankruptcy.

Where it is a general assignment of book debts, the assignee has the advantage of any debts that he collects before the man becomes bankrupt. But thereupon his assignment ceases to be effective as to the others.

The CHAIRMAN: Have you had representations from any of the banks in regard to that clause?

By Mr. Lesage:

Q. Yes, the Canadian Bankers Association.—A. We had representations from the Canadian Bankers Association upon that clause, relating chiefly to Newfoundland. They later withdrew their representations. Perhaps I should not say "withdrew," but they did not press them. They ended up by pressing two representations in particular, and not pressing the others.

Mr. BREITHAUP: What clause is that now?

The CHAIRMAN: Clause 63. I was always under the impression that bankers made quite substantial loans against bills receivable and drafts and what not. Yes, subclause (3) answers the point I have raised. Shall clause 63 carry?

Mr. MACDONNELL: Just one minute, please. Did the Bankers Association question about this only with respect to Newfoundland? Did they not think it would have an effect on clause 98?

The CHAIRMAN: No. I raised that point. Subclause (3) protects the banks.

By Mr. Ashbourne:

Q. What about anyone who had an assignment of book debts in Newfoundland? Under the statute there is no provision made for the registration of that assignment.—A. I understand that the Bankers Association has very recently made representations to the government of Newfoundland to the effect that such a statute should be passed there; and this bill as presently framed is subject to proclamation, that is, it is not to come into force upon assent, but to give a reasonable time for the necessary adjustments to take place. So therefore there is a possibility that the situation will be met before the new Act comes into force.

The CHAIRMAN: Does clause 63 carry?

Carried.

Does clause 64 carry?

By Mr. Macdonnell:

Q. Could we have a short statement from Mr. MacDonald as to the points involved in clauses 64 and 65? I gathered from the suggestion that the old clause should be restored.—A. The old section has been restored in the bill before you.

Q. Oh!—A. Do you wish me to outline it?

By Mr. Lesage:

Q. What is the conflict of jurisprudence?—A. The conflict of jurisprudence turns on the question of intent. It is perhaps an over-simplification to say simply that there is a conflict of jurisprudence, upon whether the intent required is concurrent or unilateral. I do not think it can be disposed of so simply. It is rather a question of the court in each individual case, looking at all the circumstances and saying whether or not they come within the intention of the section. It is true that some of the cases have been difficult to reconcile one with the other. But after representations were made by the Bankers Association and considered, it was felt that there was something in the apprehension which they raised, that the new draft clauses went too far. So the old sections were reverted to. The situation they were afraid that the new clauses created was briefly this: A person whose financial situation was becoming difficult might go to his bank and disclose his situation and ask for a loan in an endeavour to pull himself through, and give security for it. That would be a transaction that you would want to leave unaffected and would want to encourage because it might stave off bankruptcy, yet it might unintentionally be caught by the new draft clause as contained in the bill before the original provisions of the Act were reverted to. For that reason the old clauses were reverted to in the present bill.

By Mr. Lesage:

Q. The draft clauses were creating a presumption, I suppose?—A. No. The new clause—I will read you clause 64 (1):

Every transaction, whether or not entered into voluntarily or under pressure, by an insolvent person who becomes bankrupt within six months thereafter and resulting in any person or any creditor or any person in trust for such creditor or any surety or guarantor for the debt due to such creditor obtaining a preference, advantage or benefit over the creditors or any of them, is void as against the trustee.

The representations made on behalf of the Canadian Bankers Association were to the effect that the provisions I have read went farther than they should and farther than it had been intended to go and touched upon the kind of transaction which I have mentioned a moment ago. So that the effect would be that the credit would be adversely affected—credit from the banks particularly—at a time when it was most important to the businessman, to the debtor, to be able to get it.

By Mr. Belzile:

Q. As to those particular clauses 64 and 65, who has the onus of proof in any action filed before the court?—A. I am not entirely sure that I grasp your question, Mr. Belzile.

Q. Well, as to clause 65 suppose I enter into some kind of transaction. I buy a piece of property and I pay \$1,000 for it. Then somebody comes along and says: "This property is worth \$5,000," so, Mr. Belzile, you put back this piece of property into the bankrupt's assets, and here is your \$1,000. Then I say: Well, I entered into this contract in good faith and I paid good money for it. The property is not worth a cent more than what I paid for it, and I want my contract upheld.

The CHAIRMAN: There is a provision in clause 64 which might change the onus of proof: and in clause 65 I cannot find any statutory provision changing the normal onus of proof.

Mr. BELZILE: When you come to the matter of good faith or bad faith, it is very difficult to prove negative facts, to prove that I was unaware of the insolvency of the bankrupt at this moment, or to prove that I ignored any actual act of bankruptcy, or to prove that I had no reason to believe him to be a bankrupt or an insolvent. It is far easier to prove positive facts.

By Mr. Lesage:

Q. If you look at the presumption in the second paragraph of clause 64 you will see that in order for presumption to be created, you have to prove first that you have given a preference to a creditor. There would not be any presumption, *prima facie*, that the land you are speaking of was worth more than \$1,000. It is only after evidence is given and accepted that the land which you bought was worth more than \$1,000 that the *prima facie* presumption would be created; only afterwards.

Mr. BELZILE: In the province of Quebec we have a presumption in any kind of transaction made gratuitously, but not in a transaction which is made against valuable consideration. In that case the person who wants to set aside a transaction has first got to prove it.

By Mr. Lesage:

Q. It is the same here, the onus of proof.—A. Except in the case where it is changed under subclause (2).

Q. Then it is only a presumption of the intent, not of the facts. The facts have to be proven.

Mr. MACDONNELL: What is *prima facie* presumption, half and half of what you have done?

Mr. LESAGE: Oh, yes, it can be set aside by counter evidence.

Mr. ISNOR: In clause 64 (1) the Canadian Bar Association recommended a change from three to six months, and that recommendation was adopted.

The CHAIRMAN: Yes, but the Senate put it back again.

By Mr. Isnor:

Q. What would be the advantage or disadvantage of that, Mr. MacDonald?—A. Well it would be an advantage to the person who is attacking the conveyance in that it would give him six months instead of three months. Let me put it this way: a transaction might be concealed for three months preceding bankruptcy but it would be more difficult to conceal it for six months, and that would mean that transactions going back six months before bankruptcy could be attacked.

Q. That is what I thought, but the Senate replaced the six with three, shortening the time.—A. Yes, that is what happened, the six months period was contained in the new clause 64 and when the Senate took the view that it should revert to the present form of 64 my recollection is that the point was then raised as to the three months—six months period and it was nevertheless changed back to the old clause just as it stood with three months and not six months in it.

The CHAIRMAN: Shall clause 64 carry?

Carried.

Mr. MACDONNELL: As I understand, what happened was there was a suggestion that clause 64 and clause 65 be restored without any change and first of all that was not adopted because while it was felt there was jurisprudence it was of a very conflicting nature. Do I understand that the attempt had been made to draft clauses which would overcome this conflicting jurisprudence but that it was given up, and while that was at first not adopted, finally was adopted, it was not thought worthwhile to try to sort out these conflicting lines of thought?

The WITNESS: With the time then at the disposal of the draftsman, yes, that is so.

Mr. MACDONNELL: That strikes me as being it. I thought we were making a bill to end all bills.

Mr. LESAGE: You will always have, not contradicting judgments, but varying judgments, because that is a question which varies in each case, the question of intent. As Mr. MacDonald put it very well a few minutes ago, you will always have varying judgments on the question of intent.

Mr. MACDONNELL: Yes, but I understand this has really been given up because of the time of the draftsman. That would be rather a pity, if it is the reason, because surely if the thing is worth doing—

The WITNESS: Mr. Macdonnell, that was not entirely the reason or was not the only reason. I probably spoke a little too hastily there. It was also felt that this branch of the law was, as far as the jurisprudence is concerned, still in a state of evolution and that it would be proper to leave it for further decisions of the courts which would probably point the way more surely to the ultimate decision to be arrived at. Many of these conflicting decisions were decisions at a not high level. Not many of them have gone to courts of appeal for authoritative decisions.

The CHAIRMAN: Shall clause 65 carry?

Carried.

Clause 66?

Carried.

Clause 67?

Carried.

Clause 68?

Carried.

Clause 69?

Mr. MACDONNELL: Might I ask a question under clause 67?

The CHAIRMAN: Yes.

By Mr. Macdonnell:

(1) All transactions by a bankrupt with any person dealing with him bona fide and for value in respect of property acquired by the bankrupt after the bankruptcy, if completed before any intervention by the trustee, are valid against the trustee, and any estate or interest in such property that by virtue of this Act is vested in the trustee shall determine and pass in such manner and to such extent as may be required for giving effect to any such transaction.

Now you might have transactions of that kind where the bankrupt himself had been dealing in anything but good faith. I take it that it is only the person who is dealing with the bankrupt who has to be in good faith. Is that right?—A. That is right.

Q. I suppose if the bankrupt deals in bad faith it is too bad, nothing can be done about it.—A. I think the purpose of the distinction is to put the prejudice upon the estate if the trustee has not been astute to get in that particular piece of property. In a case like this somebody has to suffer and it is a question between the trustee and this innocent person who gave value for the property.

Q. And there is no kind of constructive notice to anyone, there is no registration he can be affected by?—A. Only what is contained in the words "bona fide."

The CHAIRMAN: So that if the debtor concealed a valuable piece of property and sold it for half of what it was worth the purchaser takes title?

Mr. MACDONNELL: That might go to the bona fides.

The WITNESS: And it might also go to the question of value.

The CHAIRMAN: Bona fide and for value.

Clause 68?

Carried.

Clause 69?

Carried.

Mr. ISNOR: Mr. Chairman, clause 68, subclause (2) dealing with the claims amounting to \$25 or more: that was a recommendation, was it not, by the Toronto Board of Trade, if I remember correctly?

The CHAIRMAN: You are referring to clause 69?

Mr. ISNOR: Clause 68, subclause (2). I was just wondering whether that was a fair clause or not. I think a small creditor, even smaller than \$25, is entitled to the same consideration.

The WITNESS: He gets the same consideration.

The trustee shall include with such notice a list of the creditors with claims amounting to twenty-five dollars or more—
but even the creditors who are not on the list get the notice.

Mr. BELZILE: The reason is that the creditor who has a claim not amounting to \$25 has not the right to vote at the meeting of creditors.

The WITNESS: And because the enumeration of the small claims is not considered necessary to inform creditors who receive the notice as to the essential facts of the case.

The Chairman:

Clause 68?

Carried.

Clause 69?

Carried.

Clause 70?

Carried.

Mr. MACDONNELL: It is a very small point but I notice,

After the first meeting notice of any meeting or of any proceeding need not be given to any creditors other than those who have proved their claims.

It seems to me that a creditor might not rush in to prove his claims.

The WITNESS: Mr. Chairman, may I just add in reply to Mr. Isnor's last question. I want to refer him to clause 81 on page 55. It has reference to the question which he just asked. A creditor with a claim of \$25 does not have a vote.

The CHAIRMAN: Mr. Macdonnell, were you satisfied with the answer given to you with regard to the failure to give notice to those who did not prove their claims?

Mr. MACDONNELL: Yes.

The CHAIRMAN: Shall clause 71 carry?

Carried.

Clause 72?

Carried.

Clause 73?

Carried.

Clause 74?

Carried.

Clause 75?

Carried.

Clause 76?

Carried.

Clause 77?

Carried.

Clause 78?

Carried.

Clause 79?

Carried.

Mr. MACDONNELL: Could we have a word on clause 77 from Mr. MacDonald?

The CHAIRMAN: Yes.

The WITNESS: The purpose of that, Mr. Macdonnell, is to say that for purposes of voting the creditor must take into consideration the people who are liable on the security prior to the bankrupt, and the reason I would suggest is that since there will be subrogation in favour of the bankrupt or his estate against those persons priorly responsible, the amount to be considered for voting purposes is only the difference. If I have not put that very well perhaps I can illustrate it a little better. Mr. Smith is a creditor and he has a note against the estate but there is a person responsible on that note before the estate and suppose the note is for \$200 and the responsibility of the first party is for \$150. Now eventually if the estate pays that note it is going to have a claim back on the other party to the extent of the \$150, so \$50, as far as voting rights are concerned, should be the measure of that creditor's claim.

Mr. LESAGE: Suppose the said note is endorsed and the first responsibility is that of the bankrupt and that it is endorsed by two responsible people then what happens?

The WITNESS: The clause has no application; the man claims, proves and votes for the full amount.

Mr. LESAGE: For the full amount?

The WITNESS: For the full amount. It is only when there is somebody with liability prior to that of the bankrupt, that the clause comes into play. I wonder if I have satisfactorily explained that?

Mr. MACDONNELL: Then the clause has no application to his claim at all?

The WITNESS: No. I think it is to take care of a situation like this, in addition to what I said: Suppose a creditor comes in and he has this note on which the bankrupt was the second party in order of responsibility, and it is for \$200, but the first party is liable to the extent of \$100 which the bankrupt estate would eventually recover if it has to pay off the full note. Now, obviously, the net claim of the creditor against that estate is the difference of \$100; and it is on that \$100 that his voting right should be based. That is what the clause brings about.

Mr. MACDONNELL: I take it then that the bankrupt does not necessarily have to deduct the full amount as to liability but he estimates the value of that document; is that right?

The WITNESS: Yes. He may say that although the person who is responsible on this \$200 note in priority to the bankrupt is responsible for \$100 he is only good for \$50 and he will value the obligation accordingly.

Mr. MACDONNELL: But that really does not hurt him though. He actually doesn't meet the value of his claim. It only hurts himself. There is no hurt coming to him here. Do I make my point?

The WITNESS: Yes, you do, Mr. Macdonnell. Well, if he put a value on it, if it was disputed or if it was disagreed with, it could be opposed by the trustee; and this also, is only for voting purposes. It is not for claiming dividends.

The CHAIRMAN: Any further questions on clause 77?

Carried.

We are now on clause 80:

Carried.

Clause 81:

Carried.

Clause 82, Inspectors.

Mr. MACDONNELL: Has any question ever arisen as to a creditor vote being in exact proportion to the amount of his claim; I mean, here we are dealing with claims over \$25 and not exceeding \$200; say his claim is for \$26 in the one case or \$199 in the other, would they both have the same voting strength?

Mr. BELZILE: Yes, one vote.

Mr. MACDONNELL: No question has been raised on that.

The CHAIRMAN: Imagine the community of interest.

Shall clause 82 carry?

Carried.

Clause 83—"Claims provable." Has any question arisen in regard to contingent claims?

The WITNESS: You will find that dealt with, Mr. Chairman, in the explanatory note on the opposite page.

Mr. RICHARD (*Gloucester*): What about subclause 4?

The WITNESS: Subclause 4, Mr. Richard, is for the purpose of covering the case of a proposal. That is, in the case of a proposal the claims provable are determined as of the date of the filing of the proposal, but you apply the same rules about contingent or future claims as clause 83 sets out in the case of a bankruptcy.

The CHAIRMAN: Any further questions on clause 83?

Carried.

Clause 84?

Carried.

Clause 85?

Carried.

Clause 86.

Mr. FULTON: Mr. Chairman, may I ask a question in regard to clause 85?

The CHAIRMAN: Yes.

Mr. FULTON: Is there any change in the forms called for by this section, proof of claims, in the Act? Clause 85 (2) refers to proof of claim in the prescribed form. Now, I am wondering about this; as a result of amending the Act do you consider it necessary to change the various forms which have been used previously?

The WITNESS: It may be necessary to make some changes. I do not think there will be any difference in principle; it would be just to make them more convenient for use under the new Act.

The CHAIRMAN: Mr. MacDonald, is any protection given to the trustee under the Act to a secured creditor realizing upon his security and realizing substantially less than its actual value?

The WITNESS: No, except that he then can claim for the balance.

The CHAIRMAN: Self interest is, I suppose, to be considered sufficient control on that, is it?

The WITNESS: I misunderstood you, Mr. Chairman. The trustee can ask him to assess the value of his security and if the trustee is dissatisfied about the value that the secured creditor places on his security then the trustee can require him to sell that security.

The CHAIRMAN: Would you mind referring me to that clause?

The WITNESS: Clause 88.

The CHAIRMAN: Yes, I know that. Would you mind referring me to the clause which gives the trustee the power to insist upon a secured creditor valuing his security before he realizes it?

The WITNESS: No, there is no such section, Mr. Chairman; that is, if a secured creditor goes right off the bat to the realization of his security, that is something he can do.

The CHAIRMAN: Would there be some power given to the trustee to intervene to prevent a secured creditor from sacrificing his security at prices which were just what he could get for it?

The WITNESS: Under clause 88, subclause 1, the trustee may require him to offer it for sale upon such terms and conditions as are agreed to between them or in default such as are directed by the court. Now that, perhaps, answers your objection in part at least.

The CHAIRMAN: As I read clause 88 it gives you three different sets of circumstances: one, where the creditor has valued his security and the trustee is dissatisfied as to the value; another is where the creditor has not realized on his security; and another one is where he has surrendered his security. Well now I am putting up to you a case where a creditor rushes ahead and squanders his security, sells it away below value; surely there must be some check upon that.

Mr. BELZILE: Clause 40, subclause 2, provides for a secured creditor to realize his security, and, after he has realized his security, if there is any amount owing to him he can prove it and file his claim for the difference.

The WITNESS: Mr. Chairman, I suppose the situation you have put your finger on is no different, in the case of a bankrupt, than it is in the case of a security that is realized without bankruptcy. You have the same danger and you have the same remedy against a secured creditor who did not take ordinary, reasonable steps to make the best out of his security. If Smith has given Jones a chattel as security for a debt, and Smith defaults, and Jones sells the security without any question of bankruptcy coming into it, you have the same possible difficulty.

Mr. MACDONNELL: Yes, only worse.

The CHAIRMAN: Shall the clause carry?

Carried.

Clause 87?

Carried.

Clause 88?

Mr. MACDONNELL: I suppose there is no other remedy—"Where the trustee is dissatisfied with the value at which a security is assessed, or where a secured creditor who has neither realized nor surrendered his security fails to assess—" then you have got to sell it. It might be a very bad time indeed to sell. I must

say that offhand I cannot think of any other way of dealing with the problem?

The WITNESS: The only other way would be to pay the debt and get the security back.

Mr. MACDONNELL: Or you could have someone else value it?

The WITNESS: Oh, when I said that I meant the only way under the present provision would be to pay the debt—

Mr. MACDONNELL: Oh yes.

The CHAIRMAN: The only way is for the trustee to be a gambler and to pay the value and have the estate take the security over; but where does the trustee get power to do that?

The WITNESS: He has the same right, as far as the equity of redemption is concerned, as the debtor has. This problem should probably be looked at also from the other standpoint—from the standpoint of the person who is prevailed upon to make an advance upon security of goods or chattels. To the extent that he is hedged around or restricted in the steps that he can take to make good his security to that extent, I suppose, that it is making it more difficult to obtain that kind of a loan.

Mr. MACDONNELL: Is it just an academic point? Is it a thing upon which you have seen difficulties arise, or does it work smoothly? It does seem to me that there is a loophole but if no one has tried to take advantage of it perhaps we should not spend time on it?

The WITNESS: I do not recall any specific case where a complaint has been made upon that point, but, on the other hand, I would be surprised if there was not frequently considerable grumbling on the part of other persons about the way secured creditors had realized their security. It is a very contentious point. The person who pledges or claims an interest in a chattel very often thinks the man who sold it did not sell it to good advantage.

Mr. MACDONNELL: Then it is a practical difficulty.

The CHAIRMAN: Shall the clause carry?

Carried.

Clause 89?

Carried.

Clause 90?

Carried.

Clause 91?

Carried.

Clause 92?

Mr. FULTON: How can a secured creditor fail to comply with clause 88, for instance? The trustee has power to order a sale and if there is no agreement then there is a direction from the court?

The WITNESS: Clause 92 is just an additional sanction.

The CHAIRMAN: Shall the clause carry?

Carried.

Clause 93?

Carried.

As Mr. Fleming is not here we had better let clause 94 stand.

Clause 95?

Mr. STEWART: There is a matter here on which I would like to have the opinion of the superintendent. There is a growing trend in industry for workers to ask for pension funds to be set up. The best way of doing that of course

is to have the pensions in the form of a federal annuity, or some other sort of annuity, or a trust fund. Where there is neither a trust fund nor annuity scheme it is possible that the company may re-invest the pension fund in the business itself and, if the company goes bankrupt, I do not see any protection here for the workers who have been contributors to the fund. Is there anything which can be done to prevent such a contingency?

The WITNESS: Mr. Stewart was good enough to mention the matter to me this morning and I told him I would consider it. We have reached this clause a little more quickly than I expected and I have not been able to give it much thought. It is a question of whether such a provision should go into clause 94. It is a question for real thought.

The CHAIRMAN: It may be that the funds should be considered as trust funds?

Mr. BREITHAUP: I think it is a good point.

The CHAIRMAN: As the superintendent has not had time to think this over could we leave the clause stand?

Mr. BELZILE: Could we not revert to section 39 and include a provision to cover this?

The WITNESS: The difficulty in Mr. Stewart's example is that it may not come within these provisions. It may not be held in trust. That is the way I understand the problem Mr. Stewart puts forward.

Mr. BELZILE: The trust here does not necessarily mean a trust deed to property held by the bankrupt in trust for any other person. It does not mean there should be a special trust deed.

Mr. MACDONNELL: Could you in any way establish the trust if the moneys were hopelessly mingled with company funds? I wonder what Mr. Stewart would say to that?

Mr. STEWART: That is why I raised the point.

The CHAIRMAN: The relation between the employer and the employees is so close that if the employees are persuaded to consent to the loan of their funds, or part of their funds, to their employer, then surely it would be our duty to protect them against their own action.

Mr. MACDONNELL: If by any possibility that can be done?

The CHAIRMAN: I would certainly think it would be within the jurisdiction of this parliament to say that any such amount loaned by their officials from their pension fund or funds of that nature to the employer shall be considered trust funds for the purpose of bankruptcy.

Mr. MACDONNELL: I suppose that in a good many instances they would become, to all intents and purposes, partners in the business. Morally there should be some protection.

The CHAIRMAN: I would think that in the absence of evidence it should not apply, but I would say that there would be ample evidence to indicate the nature, the date and the amount of the loans made from the funds.

Mr. BREITHAUP: They would be preferred creditors.

The CHAIRMAN: I would think they should be trust creditors.

Mr. BREITHAUP: Under the present setup they would be preferred creditors but that is not good enough.

Mr. LESAGE: Do you refer to any kind of a loan?

The CHAIRMAN: I helped set up one of these plans not over a year ago. If the employees contribute into a fund jointly with their employer for the purpose of setting up a pension fund, then it is perfectly good business for those employees to loan those funds to their employer to help him carry on his business affairs.

Mr. LESAGE: A loan made from the special funds?

The CHAIRMAN: From the special funds to the employer. I think the relationship between the folk making the loan and the men borrowing the money is so close that it is our duty to protect them from themselves.

Mr. STEWART: There are cases in small corporations where there is a very good spirit between the employees and the employer and where a fund such as this has been set up the employees know that they may have to help out in case of financial emergency, and money may be advanced from the pension fund in the hope that it will carry the business through but then the business may go bankrupt.

Mr. BELZILE: There are no such pension fund loans being made in practice now are there?

Mr. STEWART: It is something new in industry.

Mr. BELZILE: It has been done in the United States in the last two or three months I understand?

Mr. STEWART: Yes, and the pattern there is going to be followed here.

Mr. BELZILE: But it has not been followed here?

Mr. STEWART: Not yet.

The CHAIRMAN: Not to any great extent but it is being followed.

Mr. BELZILE: But we have contributory pension plans now?

The CHAIRMAN: Yes, and the employees and the employers both contribute to the fund. The employer may then turn around and borrow fund moneys to carry on his business.

Mr. GOUR: What happens then? Is the fund considered finished?

Mr. LESAGE: If the employees consent to the loan they are taking their own risk.

Mr. BREITHAUP: Yes, but they are acting on the assumption that the employer is sound and that their money is safe.

Mr. LESAGE: When you lose money it is always because you have acted on that assumption.

Mr. BREITHAUP: We should protect the workmen against that contingency?

Mr. FULTON: Are there not two types of cases, one where money is loaned from the fund to the company—in which case I take it the fund would be in the position of a secured or unsecured creditor depending upon the nature of the loan; and the other case is where no separate fund is ever set up and the pension funds were mixed with the ordinary company funds—in which case it would surely be proper to say that money was in the nature of trust funds. In the latter case Mr. Stewart's point would apply. It seems to me to be very difficult to make it part of the law that if a loan is made from the pension fund of the company, the pension fund should be in any different position from any other creditor.

The CHAIRMAN: You would be inclined then to put one type ahead of the other, that is where the pension fund was not carried on in a businesslike manner, and no official loan was made, no pension fund actually set up, you would say in that instance it is trust funds.

Mr. FULTON: That seems to me to be the position, just like anybody else who is handling trust funds and who perhaps is unbusinesslike.

The CHAIRMAN: And you would say that employees by officially authorizing a loan, that they lose their position. That may be sound.

Mr. FRASER: Under the Income Tax Act, does it not have to be entirely separate? I do not think they can set it up and leave it in company funds. I think they must be entirely separate. All these companies which set up funds

of that kind have committees of their workers which handle the whole thing. They bank the money and look after the whole thing and I do not think you would find one company in Canada which is handling the fund in with their other funds.

Mr. ISNOR: Dealing with clause 95—(d), the Commercial Travellers' Association are concerned about the wording "wages, salaries, commissions or compensation." They would like to have the superintendent outline the definition in so far as that particular word "compensation" is concerned. They ask whether this would include out-of-pocket expenses such as installing of equipment which was sold within a period of two or three months, in cases where it took a commercial traveller considerable time to set up such equipment. They are anxious to have an interpretation of that word in order to know whether these out-of-pocket expenses I have mentioned—A. Mr. Isnor, giving you a very off-hand answer—it must be that if I speak at the moment, an expression of opinion—with regard to wages, salaries, commissions or compensation, I should be inclined to think that there was there what might be called a genus, and that compensation would take the colour of wages, salaries or commissions, and would not include out-of-pocket expenses. But I would be glad to go into that for you further.

Q. May I enlarge on that thought while you are considering it. A commercial traveller may sell shelving and he will deliver the shelving and his contract may call for it to be set up. Therefore, he will incur out-of-pocket expenses for board and room and so on. I should think that should be part of his regular wages or salaries and commission. Would you mind giving it consideration?—A. Yes, I shall be glad to.

Q. I think they have a point there, Mr. Chairman.—A. Now, the other side of that situation, Mr. Isnor, if I might just suggest it, would be: this is a special provision for the persons mentioned in paragraph (d), and while you are considering any particular group, I know it is very easy to find reason to make exceptions in their favour; but if you look at the whole picture, I have little doubt that you would also find many other classes of persons for whom an equally meritorious case could be put. I wish to go over carefully what you have said and the suggestion you have made; but there is that other side to the question, of how far special treatment should be extended and to what classes it should go, and what it should take in.

Q. I recognize that, but it refers particularly to certain classes in the classification of clerks, servants, travelling salesmen, labourers, and so on. I just took the one, commercial traveller, because I know of cases of that type. The same thing might apply to one or two other classes, and if so I believe your interpretation should be broad enough to include all the classes and not to make a special case of commercial travellers, although I think it applies to that class to a greater extent than to the others.

The CHAIRMAN: Will you take the chair please, Mr. Lesage.

The Vice Chairman took the chair.

The VICE CHAIRMAN: Even a clerk may have travelling expenses for which he is indebted to his employer.

By Mr. Stewart:

Q. Why should paragraph (c) come before paragraph (d)? Surely the requirements of a worker are greater than the requirements of the superintendent. In other words, the worker will be more badly hurt by bankruptcy in not getting his wages than the superintendent would be in not getting his quota.—A. The administration of the superintendent's office applies to the advantage of the people referred to in paragraph (d) as to all others. The levy is one-half of one per cent. I doubt whether it takes an appreciable sum from any of the people who come under (d). We collect through the levy about \$5,000 all over Canada.

Q. It is not a very substantial amount, apparently.

The VICE CHAIRMAN: As to the question which was raised by Mr. Isnor, apropos travelling expenses, would you give it a thought, because I believe there is something there.

Mr. GOUR: Something should be done about it.

The VICE CHAIRMAN: And we will take it up tomorrow. I believe if there was a way of doing something about it, it would only be fair.

The WITNESS: I shall give it careful consideration. I do not want to stress the other view, but let us suppose that somebody comes in on the eve of bankruptcy, or suppose a debtor goes to somebody—and I am just taking one instance of what might happen—and says: "Look, I am almost on the rocks; I do not know if I shall be able to pull through or not. If you will lend me money, you will be taking a chance, and I want you to know that. But will you give me a chance to pull through?" Suppose the man who was applied to digs up a couple of thousand dollars and puts them into the business. He has got no security for it. Then later on the business man becomes bankrupt. Let us suppose that the man who loaned the money is retired and that \$2,000 loan came out of what he had invested and upon which he was living. Now, you have got a very hard case there. Are you willing to say that that man is less entitled in the matter of priority than the people mentioned under (d)? My point is that once you start to appraise comparatively, you are in a difficult field.

The VICE CHAIRMAN: Suppose you limit it to \$500.

Mr. FULTON: Subclause (e); I do not quite understand the effect of that change.

The VICE CHAIRMAN: I understand that subclause (e) will stand, and that Mr. MacDonald will give it some thought.

The WITNESS: Yes.

Mr. FULTON: I do not quite understand the effect of the change in the clause, where it says:

(e) municipal taxes assessed or levied against the bankrupt within two years next preceding his bankruptcy and which do not constitute a preferential lien or charge against the real property of the bankrupt—

Mr. BELZILE: Licences to carry on business for example as a lawyer, in my town.

Mr. FULTON: Such things as trade licences.

Mr. BELZILE: Yes, trade licences.

The VICE CHAIRMAN: Or rental taxes. In some cities there are rental taxes.

Mr. FULTON: But it does not affect anybody in the nature of a real property tax.

The VICE CHAIRMAN: No, no.

Mr. BELZILE: They are unsecured on any property.

Mr. RICHARD (Gloucester): They are more of a personal tax, they are not attached to any property.

Mr. BELZILE: Yes.

By Mr. Fulton:

Q. You mean the taxes contemplated in paragraph (e) are not secured by property?—A. Yes, that is right, and it may be, having regard to modern legislative practice, that (e) has very little practical application, but we were not sufficiently sure that it was unnecessary, so we put it in.

By the Vice Chairman:

Q. There are some taxes which are unsecured. Business taxes are unsecured. In paragraph (h), Mr. MacDonald, there are three classes of Crown claims which are of the nature of a trust. What about the sales tax, the provincial sales tax? That is in the nature of a trust. I have in mind a sales tax which has been collected and which is kept in the business and paid only after a month or so.—A. In the case of the Unemployment Insurance Act I think I would go along with you in the thought that most of those funds are funds which are supposed to be, at least, collected and kept as separate funds.

Q. And so with the income tax?—A. But I am not sure that it applies so strongly to the case of workmen's compensation.

Q. You are right there.—A. But I rather think in the case of (h) the reason was not so much the technical consideration of trust funds or otherwise as the purpose for which those funds were used, that is, in one case for the assistance of a disabled workman; in the other case, of unemployment insurance, to people who are out of work.

Mr. GOUR: Suppose a tax is not paid. The man would be without work and would not receive the money. If it is not paid, it should be capitalized.

The VICE CHAIRMAN: Are there any other questions on clause 95?

By Mr. Macdonnell:

Q. Paragraph (e) at the top of page 64, I read:

(e) municipal taxes assessed or levied against the bankrupt within two years next preceding his bankruptcy and which do not constitute a preferential lien or charge against the real property of the bankrupt but not exceeding the value of the interest of the bankrupt in the property in respect of which the taxes were imposed as declared by the trustee;

Those, I take it, are municipal taxes, other than taxes on real estate.—A. Other than taxes which are secured on some property.

Q. Let us say they are business taxes.—A. That may be.

Q. Then, what is the meaning of the words:

... in respect of?

On what property is a business tax charged? Is it charged on the building in which you carry on the business?—A. I would like to say again what I said to Mr. Fulton. I am not sure that paragraph (e) has a very wide practical application today. We were not sufficiently sure that its purpose had gone to leave it out. And that purpose is this: that there may be municipal taxes which are imposed in respect to property, but not so as to constitute a lien on that property. Now, if they come within the two year period, this clause says that they get a preference. But they do not get a preference beyond the amount which they would have got had the Bill made them a lien on the property. That is, you cannot come in and put yourself in a better position than that of a secured creditor. As a secured creditor, the most you would have had would be the value of the property itself. You are given priority but not to a greater value than the property on which might have been made a lien.

By the Vice Chairman:

Q. Would this cover business taxes based on the rental value of a property? —A. Does that business tax constitute a preferential lien or charge?

Q. No, it does not.—A. Yes.

By Mr. Fulton:

Q. It seems to me that you would have, by those last two lines, made it impossible to recognize any ordinary municipal business tax. Let us put it this

way. Most municipalities now charge a licence fee for any person or industry or business concerned to carry on business within the municipality. Those licence fees are not secured on any property—you may be renting your premises—you still have to pay your licence fee and your fee is not secured on the property you occupy. Now the last two lines on your clause it seems to me make the only taxes which are given this priority contemplated in subclause (e) taxes which are imposed in respect of the property.

The VICE CHAIRMAN: What is the meaning of property there? It all depends on the meaning of property in the context.

The WITNESS: I see Mr. Fulton's point and there would be no objection certainly to a change which would, I think, meet it and which would be this, to read the last three lines in this sense:

but not exceeding the value of the interest of the bankrupt in any property in respect to which the taxes may have been imposed.

Does that meet your point, Mr. Fulton?

Mr. FULTON: Well, that seems to me—I may still be wrong—to confine the type of taxes which is contemplated by subclause (e) to a tax imposed in respect of property.

The WITNESS: I think that changed wording would take away the implication contained in the words as they now are. I understand you to say that you take the last three lines as necessarily implying that the taxes in order to get the benefit of subclause (e) must be imposed in respect of property. Now, if instead of referring to the interest of the bankrupt in the property in respect of which the taxes "were" imposed—

The VICE CHAIRMAN: Mr. Fulton, if you would look on page 3 of the bill at the definition of "property" I think it will answer your point.

By Mr. Richard (Gloucester):

Q. What is the meaning of the words: "as declared by the trustee"?—A. It means that the trustee has the sole discretion, subject of course to appeals which may be to the registrar or to the judge and from there up, to say what is the value of that property for the purpose of limiting the amount of a preferential claim.

Q. Supposing any tax law or anything declares that this shall be a first lien?—A. Then we are not under subclause (e) at all—we are secured creditors.

Mr. MACDONNELL: It seems to me that the tax, the claim indicated here, is indicated in the first two lines as I read it to be:

municipal taxes assessed or levied against the bankrupt within two years next preceding his bankruptcy and which do not constitute a preferential lien or charge—,

surely that means all taxes other than taxes secured on real estate and surely again the last three lines are merely putting a limit on the tax claims which are set out in the first three lines.

Mr. FULTON: It seems to me to contradict itself. The first three lines say that priority is given to taxes not secured on real estate and in the last three lines it says that the taxes will only be given this priority if they are taxes imposed in respect of property.

The VICE CHAIRMAN: But not necessarily real property.

Mr. FULTON: I see the point made by the chairman. He has referred to the definition of property on page 3 which is quite wide.

The VICE CHAIRMAN: Anything, even the right in a lease, would be property.

Mr. FULTON: But, any trade licence for which your municipality charges as a condition of doing business within its limits: to what possible property, even within the scope of that definition, could that tax apply?

The VICE CHAIRMAN: If you go back to page 3—

Mr. FULTON: There is no property, there is no interest in property attached by that licence; it is just a fee which you have to pay before you can do business in that municipality.

The VICE CHAIRMAN: The right to do business is surely a property, it is something.

The WITNESS: In that case, Mr. Fulton, the limitation does not apply. There is no limitation by intention. It may be that those three lines do raise an implication of the nature you referred to but by the intention of the subclause, the limitation does not apply.

By Mr. Fulton:

Q. You mean the limitation shall not exceed— —A. The limitation to the value of the property in respect of which the taxes were assessed.

Q. Well if it were held then that those words do not operate to qualify the type of tax to which the priority is given I would be satisfied, but it seems to me that as they are expressed here they qualify the type of tax to which the priority is given rather than the amount.

Mr. MACDONNELL: They do not seem to set out to do it but they do it farther through.

Mr. FULTON: Perhaps that subclause could stand and if there is any validity in my point—

The VICE CHAIRMAN: We will let the whole clause 95 stand.

Mr. STEWART: Perhaps, Mr. MacDonald might be able to give a legal opinion on this suggestion of mine with respect to reserves, pension reserves.

The VICE CHAIRMAN: Is it your intention that we should adjourn now or continue till six o'clock?—We will adjourn now and meet again tomorrow morning at 11:30 a.m. in this room.

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APPENDIX A

THE SUPREME COURT OF ONTARIO IN BANKRUPTCY

(HONOURABLE MR. JUSTICE URQUHART)

OSGOODE HALL, TORONTO 1

NOVEMBER 25, 1949.

HUGHES CLEAVER, Esq., M.P.,
Chairman, Banking and Commerce Committee,
House of Commons,
Ottawa, Canada.

DEAR MR. CLEAVER: With reference to your kind letter about the Bankruptcy Bill, it is my firm opinion that section 21 (6) of the Bill should contain a provision for adjudging the debtor bankrupt, and that its wording should closely adhere to that of section 4 (6) of the present Bankruptcy Act, R.S.C., 1927, Chap. 11, namely:

and, if satisfied with the proof, *may adjudge the debtor a bankrupt* and in pursuance of the petition, make an order, in this Act called a receiving order.

I enclose a memorandum which I sent to the Senate Committee on that point.

This is the most important, in my opinion, of the recommendations which I made in my evidence before and my Brief to the Senate Committee, not that some of the others are not important.

If you would like me to appear before the Committee next week, I could arrange to do so, provided that the trip is not Pickwickian, but at the moment I do not think I could add much to what is already on record.

With best regards, I am,

Yours sincerely,
(G. A. URQUHART)

There is no provision in Bill F. for adjudging the debtor bankrupt. In the Memorandum submitted by the Superintendent of Bankruptcy with regard to section 21 (6), (1949 Minutes, page 97), he quotes from Duncan and Reilley:

Under the Bankruptcy Act—it is the receiving order which vests the property of the debtor in the trustee, and the adjudication does little more than attach the label of bankrupt to the debtor.

No authority is given in Duncan and Reilley for this statement, and it is apparently only the personal opinion of the author.

In Bill F, the bankruptcy of the debtor only arises by inference from the definition of “bankrupt” and “bankruptcy”. There is no definition of “receiving order”.

Section 4 (6) of the present Act provides that the Court—

may adjudge the debtor a bankrupt and in pursuance of the petition, make an order, in this Act called a receiving order.

Adjudging the debtor bankrupt is the basis of bankruptcy proceedings.

Under the present Act, it is not only the vesting of the property of the debtor in the trustee that is effected, *but the adjudication of bankruptcy affects the status of the debtor and his rights and privileges*. (Such disabilities may be removed when he obtains his discharge from bankruptcy).

For example, under section 192 of the present Act:

Where an undischarged bankrupt obtains credit to the extent of five hundred dollars or upwards from any person without informing that person that he is an undischarged bankrupt; or if he engages in any trade or business under a name other than under which he was adjudicated bankrupt without disclosing to all persons with whom he enters into any business transaction the name under which he was adjudicated bankrupt,

he shall be guilty of an indictable offence, etc.

See also DUNCAN and REILLEY, page 780: Section 145. Statutory disqualification removed

Section 31 of The British North America Act reads:—

31. The place of a Senator shall become vacant in any of the following cases:—

- (3) If he is *adjudged bankrupt* or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter.

APPENDIX B

Translation

COMMITTEE ON BANKRUPTCY

Proceedings of a meeting of the Committee on Bankruptcy, held at Montreal, the 22nd of November, 1949.

At a meeting of the Committee on the Bankruptcy Act, held at Montreal, the 22nd of November, 1949, at 9.30 o'clock a.m., to study Bill F. "An Act respecting Bankruptcy", which the House of Commons will be asked soon to consider on second reading.

There were present: Messrs. Jacques Panneton K.C., Richard R. Alleyn, K.C., Auguste Quesnel and Charles Coderre, K.C., Secretary-Treasurer. Messrs. Redmond Quain, K.C., and Louis Joseph de la Durantaye, K.C., were absent.

The Committee is aware of the fact that certain suggestions which it had made in April, 1949, when the proposed Bill re Bankruptcy was before the Senate, had been accepted and incorporated in the new Bill for submission to the House of Commons. Certain other suggestions which the Committee considered warranted were, unfortunately, set aside and the Committee does not consider it advisable to repeat them.

However, after further discussion and study of the new Bill (Letter F of the Senate), the Committee is of opinion that there should be proffered representation in the following terms:

The trustee should act through a solicitor in all proceedings of a contentious nature, and more particularly in those brought under clauses 10(d), 66, 85(6), 123 and 137, and in those where he makes an application on behalf of the debtor, such as in the case of a composition under clause 33 and the discharge of the debtor under clause 127(2), in order that the debtor be properly represented.

To give effect to the above suggestions, it is only necessary to amend the general rule 5a, in force since the 1st October, 1948, by adding thereto the following words:

except in the case where the process is of a contentious nature or where the trustee makes an application on behalf of the debtor.

(Signed) CHARLES CODERRE,
Secretary-Treasurer.

MONTREAL,
this 23rd day of November, 1949.

Seal of the
Bar of the
Province of Quebec.

APPENDIX C

760 VICTORIA Sq.,
November 25, 1949.

HUGHES CLEAVER ESQ., M.P.
Chairman, Banking and Commerce Committee,
House of Commons,
Ottawa, Ont.

Dear Mr. Cleaver:

Please accept my thanks for your letter of November 24th, a copy of the new Bankruptcy Bill, and your kind invitation to make representations on behalf of the Montreal Board of Trade.

Unfortunately I shall be in Toronto on Monday and Tuesday next and since the session is expected to end soon, it appears unlikely that there will be time to express an oral or written opinion on the Bill, much as I would like to do so.

I note that all the evidence taken by the Senate Committee is before you and I would very much like to direct attention to the brief I presented to that committee and the memorandum regarding the operation of the Companies' Creditors Arrangement Act, 1933.

Since the new Bankruptcy Bill now provides for proposals, compromises, statements etc. *before* as well as after Bankruptcy, the Montreal Board of Trade is of the opinion that the *Companies' Creditors Arrangement Act should be amended to restrict its application to companies having securities in the hands of the public subject to the provisions of a trust deed.*

It is felt that the abuses which took place before the war and which are continuing should be stopped by complementary legislation now that all arrangements are to be provided for under the new Bankruptcy Act.

If it is at all possible to send a written statement to the clerk of the committee, next week, I shall endeavour to do so but in the meantime would like to emphasize the urgency for corrective legislation amending the Companies' Creditors Arrangement Act.

Yours very truly,

H. S. T. PIPER,
Chairman,
Bankruptcy Committee,
Montreal Board of Trade.

APPENDIX D

THE BOARD OF TRADE OF THE CITY OF TORONTO

Mezzanine Floor

KING EDWARD HOTEL

TORONTO, November 25, 1949.

T. L. McEvoy, Esq.,
Clerk,
Banking and Commerce Committee,
House of Commons,
Ottawa, Ont.

Dear Sir:

In recognition of this Board's long interest in the question of bankruptcy legislation, and its representations made from time to time with respect to Senate consideration of this matter, Mr. Hughes Cleaver, M.P., Chairman of the Banking and Commerce Committee of the House of Commons, wrote us under date of November 24th requesting our wired advice as to whether or not we were interested in making any further submissions on the subject. A copy of the telegram which was despatched to Mr. Cleaver from this office today is attached for your information.

You will observe that our primary interest is in ensuring that passage of the Bankruptcy Bill at the present session of the House should be not impeded. However, we are keenly interested in the Committee procedures now in progress, and should welcome the opportunity of submitting further explanations respecting our prior submissions by having our representative appear before the Committee at any convenient time, provided such action will be not likely to delay unduly or prejudice passage of the Bill.

A copy of our submission presented to the Senate Committee on Banking and Commerce on November 1st last is enclosed for your information, together with a memorandum indicating the action taken on the amendments requested.

We shall be grateful to be kept informed of progress, and to be advised, in advance if possible, if it appears that any useful purpose can be achieved by the personal attendance of our representative before the Committee.

Yours very truly,

F. D. TOLCHARD,
General Manager.

APPENDIX E

THE CANADIAN BANKERS' ASSOCIATION

MONTREAL, November 26, 1949.

HUGHES CLEAVER, Esq.,
Chairman,
Banking and Commerce Committee,
House of Commons,
Ottawa, Ont.

Dear Mr. Cleaver:

In the absence of Mr. Rogers from the city today I am acknowledging receipt of your letter of November 24th enclosing a copy of the new Bankruptcy Bill. We wish to thank you for your courtesy.

The various sections in the Bill as first introduced, to which representations on our behalf were addressed to the Senate Banking and Commerce Committee, were generally speaking adjusted in conformity with our views. It would not appear necessary for any further representations to be made on our behalf unless, of course, in the opinion of your Committee sections of the Bill in which the banks have an interest are opened up for other amendment. In the event of that occurring we should have to consider what further representations we should like to offer.

Yours very truly,

H. L. ROBSON,
Assistant Secretary.

APPENDIX F

1404 MONTREAL TRUST BLDG.,
TORONTO 1, Nov. 24th, 1949.

HUGHES CLEAVER, ESQ.,
Chairman of the Banking and Commerce
Committee of the House of Commons,
Ottawa, Ont.

SIR: The Association has studied House of Commons Bill 149, an Act respecting Bankruptcy, which is a revision of bills introduced in the Senate in 1948 and 1949, to all of which the Association gave careful study, and with respect to which it submitted its considered views. As the Bill is now for the first time being considered by your Committee, the Association respectfully submits the following representations which were made on the corresponding provisions of the preceding bills but which have not been given effect to in the present Bill.

1. *Elimination of Custodian, Section 6 and 21 (9).*

The Association approves of the elimination of the custodian in bankrupt estates, recognizing that almost invariably the custodian is confirmed as a trustee. This step therefore eliminates unnecessary procedure. However, the fact of having a custodian gave the prospective trustee an opportunity to consider whether he should take on the bankrupt's estate. The elimination of the office of custodian, and the new provision of Section 6(4) making it obligatory for a trustee to continue his duties until relieved thereof, make it desirable that Section 6 should be amended to provide that the trustee may withdraw up to the time of the first meeting of the creditors.

The Association suggests such amendment should be made to Section 6.

2. *Action by Trustees before first meeting of Creditors, Section 8(8).*

It is suggested that at the end of Subsection 8 of Section 8, the following words be added:—

and provided that he shall at the first meeting of creditors obtain the approval of the creditors and if such approval is not obtained, he shall be entitled to costs and expenses of the action if the court is satisfied that he acted reasonably and in good faith.

The Association feels that it is desirable in the interests of the creditors that the trustee be required to obtain the approval of the creditors for action taken prior to the first meeting of creditors. However, in any case, if the trustee acted reasonably and in good faith he should be entitled to his costs and expenses. This provision would ensure that the creditors do not suffer as a result of unreasonable action by the trustee.

3. *Proceedings by Trustee in Emergency, Section 8(9).*

It is proposed that Subsection 9 of Section 8 be amended by adding at the end the following words:

and provided that he shall as soon as possible obtain the approval of the inspectors and that if such approval is not obtained, he shall be entitled to costs and expenses if the court is satisfied that he acted reasonably and in good faith.

It is felt that the trustee should be relieved of costs and expenses only in respect of such legal proceedings, and actions taken in an emergency as are taken reasonably and in good faith. This suggested change corresponds to the amendment proposed for the previous subsection and is likewise designed to safeguard the interests of creditors.

4. *Trustee's Separate Account, Section 9(3).*

It is suggested that the word "trust" in line 2, is unnecessary and should be deleted, so that the phrase would read "in a separate account".

5. *Payments Made by Trustee, Section 9(4).*

It is proposed that this Subsection reading: "all payments made by a trustee shall be made by cheque drawn on the estate account" should be deleted.

This provision would require even petty cash payments to be made by cheque. The matter is sufficiently covered by a provision requiring the deposit in a separate account of all monies belonging to the estate.

6. *Trustee Carrying on the Business of the Bankrupt, Section 10(c).*

It is proposed that the words "with a view to an early winding-up" be added after the word "estate" in the third line of the paragraph.

It is felt that the trustee should not be encouraged to carry on the business indefinitely but any work of administration done by him should be with a view to an early winding-up.

7. *Non-compliance with Bulk Sales Act an Act of Bankruptcy, Section 20(1)*

It is recommended that Paragraph (h) of the present Act reading: "If he makes any bulk sale of his goods without complying with the provisions of any Bulk Sales Act applicable to such goods in force in the province within which he carries on business or within which such goods are at the time of such bulk sale", be included as an additional paragraph to Section 20(1). It is realized that a debtor who does this, will probably have committed some other act of bankruptcy designated in the present Bill, but such other act may be much more difficult to prove than the failure to comply with the provisions of the governing provincial Bulk Sales Act. Therefore, failure to comply with such legislation should be designated as an act of bankruptcy in the present Bill.

8. *Persons Not Covered by the Act, Section 25.*

It is proposed that Section 25 be amended by substituting the word "twenty-five" for the word "twenty-four" in the first line. It is also suggested that Section 25 be placed after Section 26, in other words, that Section 26 be renumbered as Section 25, and Section 25 be renumbered as Section 26.

The purpose of the proposed amendment is to exclude from recourse to voluntary bankruptcy, the persons who are excluded from the application of the receiving order under Section 25.

It is not considered just and equitable that persons against whom receiving orders cannot be filed, should be able to avail themselves of bankruptcy proceedings where it suits their purpose, regardless of whether it suits their creditors.

9. *If no Licensed Trustee is Willing to Act, Section 26(5).*

It is recommended that the words "or where the trustee withdraws" be inserted after the word "act" in the second line of this Subsection, so that the Subsection shall read as follows:—

Where the official receiver is unable to find a licensed trustee who is willing to act or where the trustee withdraws, he shall, after giving the bankrupt seven days' notice of his intention, cancel the assignment.

This is to provide for the carrying out of the procedure suggested in Item 1 of this submission for allowing the trustee to withdraw up to the time of the first meeting of creditors because without such amendment as proposed, the official receiver in the case of a trustee withdrawing, might not be able to cancel the assignment.

10. *Proposals, Section 27.*

The Association approves of this Section which brings back into bankruptcy practice, the right of a bankrupt person to make a proposal to his creditors without going into bankruptcy, and without thereby being designated a bankrupt. It is well-known that, generally speaking, in a case where a proposal is made before bankruptcy, much more is realized by the creditors than would be the case if the debtor was declared a bankrupt. Almost always, the assets of a bankrupt estate depreciate a considerable amount due to the fact that it is a bankrupt estate, and even if the business of the bankrupt is carried on, it is very difficult to receive full value for the goods or services which are sold or furnished.

11. *Protection of Trustee from Personal Liability in Certain Cases, Section 49.*

It is suggested that in the sixth line of Section 49, the word "unregistered" be deleted, and after the word "charge" in the same line, the following words be inserted:—"not registered or not protected against creditors under the law of the Province."

The reason for this is that some provinces such as Ontario, permit liens on manufactured goods to continue valid without registration provided that the name and address of the vendor are marked thereon. With respect to property which is subject to a valid but unregistered lien, under the present wording of the Section, the trustee is not personally liable for any loss or damage. This cuts down the rights of lienholders holding such liens. A competent trustee would be familiar with the Conditional Sales Act of his province, and should take notice of all liens which are properly protected. It may be that in such provinces, the trustees will be put to considerable trouble in making the necessary inquiry but this is preferable to valid lienholders being deprived of their rights as secured creditors and reduced to the status of ordinary creditors.

12. *Priorities, Section 95.*

The Association approves this Section in that it lays down a comprehensive scheme of priorities. This should clarify this contentious matter, and should reduce the amount of litigation. The higher priority given to the ordinary trade creditor is welcomed. It is the trade creditors that usually institute the proceedings, and heretofore, too often, they have not realized any worthwhile dividends as a result of their efforts.

13. *Summary Administration, Section 114.*

The Association approves of this new procedure for the administration of a bankrupt person's estate with few assets. It appears to fill a gap in bankruptcy procedure. It serves to permit a bankrupt person to obtain his discharge and start over again. At the same time, it provides for an inexpensive administration of the estate.

14. *Discharge of Bankrupt, Section 127.*

The Association has considered the new provision under Section 127 respecting the discharge of a bankrupt, and considers that it is an improvement.

15. *Powers of Registrar, Section 149.*

The Association approves of the additional statutory powers given to the Registrar, some of which have been exercised by him without specific legislative

sanction, as it would appear that the new powers given should expedite proceedings and cut down the expense which Court hearings would entail. However, these additional powers will only be an improvement if the Registrars who are appointed to exercise them possess the necessary high qualifications.

We trust that your Committee will give the above Submission full consideration.

Yours very truly,

H. W. MACDONNELL,
Manager, Legal Department.

APPENDIX G

DANIEL P. HATCH, CHAIRMAN
1009 Laird Boulevard
Town of Mount Royal, Que.
Telephone: Atlantic 3221

J. SID. WINTERS, TREASURER
139 Lakeshore Road, Humber Bay
Toronto 14
Telephone: Lyndhurst 4920

NOVEMBER 25, 1949

Mr. HUGHES CLEAVER, K.C., M.P.
Centre Block,
4th Floor,
House of Commons, Ottawa.

Dear Mr. CLEAVER,—First of all, Mr. Cleaver, permit me to thank you most sincerely indeed for the many courtesies and kindnesses which you rendered to me yesterday at Ottawa. You were extremely helpful and you most certainly stoutly supported the able presentation made on the behalf of the Commercial Traveller by Mr. Macnaughton, when Section 12 of the Act was dealt with.

I do hope that the suggestion for change made in Section 12 may still be incorporated in Section 94 when you get to deal with that Section, and that in Section 95 the word "Compensation" may be interpreted to include expenses paid out in Travelling by Commission Salesmen.

I have ordered a Transcript of each day's proceedings of your Committee and in that way I will be able to keep in touch with the progress made.

Thanking you again, sir, for the very real kindnesses and services which you extended to me, I am

Very sincerely yours,

D. P. HATCH,
Chairman.

HOUSE OF COMMONS

1949

SECOND SESSION

STANDING COMMITTEE

ON

BANKING AND COMMERCE

Bill No. 149 (Letter F of the Senate) An Act Respecting
Bankruptcy

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

WEDNESDAY, NOVEMBER 30, 1949

WITNESS

T. D. MacDonald, Esq., K.C., Superintendent of Bankruptcy,
Department of Justice, Ottawa.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949



MINUTES OF PROCEEDINGS

House of Commons,

WEDNESDAY, 30th November, 1949.

The Standing Committee on Banking and Commerce met this day at 11.30 a.m. The Vice-Chairman, Mr. Jean Lesage, presided.

Members present: Messrs. Ashbourne, Bennett, Breithaupt, Cannon, Dumas, Fleming, Fournier (*Maisonneuve-Rosemont*), Fraser, Fulford, Fulton, Hellyer, Hunter, Isnor, Lesage, Prudham, Queleh, Stewart (*Winnipeg North*).—17.

In attendance: Messrs T. D. MacDonald, K.C., Superintendent of Bankruptcy, and J. S. Larose, office of Superintendent of Bankruptcy.

Consideration resumed of Bill No. 149, An Act respecting Bankruptcy.

The following clauses were passed, subject to reconsideration at the request of any member: 96 to 106, both inclusive; 108 to 119, both inclusive. The following clauses stand: 107 (3); 117 (b), (l) and (o) will be redrafted by the Superintendent of Bankruptcy to cover suggestions made by Committee.

The Committee adjourned at 12.30 p.m., to meet again this day at 3.30 p.m.

AFTERNOON SESSION

The Committee resumed at 3.45 p.m. The Vice-Chairman, Mr. Jean Lesage, presided.

Members present: Messrs. Ashbourne, Belzile, Breithaupt, Cannon, Cote (*St. John-Iberville-Napierville*), Fraser, Fulford, Fulton, Gour (*Russell*), Hellyer, Hunter, Lesage, Macdonnell, Prudham, Richard (*Gloucester*).—15.

In attendance: As at morning session.

Consideration resumed of Bill No. 149, An Act respecting Bankruptcy.

The following clauses were passed, subject to reconsideration at the request of any member: 120; 121 (as amended); 122-126; 128 (as amended); 129-135, both inclusive; the following clause stands: 127.

Clause 121, on motion of Mr. Hunter,

Resolved.—That clause 121 be amended, in line 15 by deleting the words "the trustee or any creditor" and by inserting, in line 15, after the word "bankrupt", the words "his dealings or property".

Clause, as amended, carried.

Clause 128(1), on motion of Mr. Cannon,

Resolved,—That Clause 128(1) be amended, in line 6, by deleting the word “and” and substituting therefor the words “as to”; and in line 7, by deleting the words “together with” and substituting therefor the words “and as to”.

Clause, as amended, carried.

It was agreed that the French text of 128(1) need not be amended.

The Committee adjourned at 5.40 p.m., to meet again tomorrow, Thursday, December 1st, at 11.30 a.m.

T. L. McEVOY,
Clerk of the Committee.

EVIDENCE

HOUSE OF COMMONS,
NOVEMBER 30, 1949.

The Standing Committee on Banking and Commerce met this day at 11:30 a.m. The Vice-Chairman, Mr. Jean Lesage, presided.

Mr. T. D. MacDonald, K.C., Superintendent of Bankruptcy, recalled:

The VICE-CHAIRMAN: We have a quorum. When we adjourned last night we decided to let clause 95 stand so we will proceed and leave the clauses on which there seem to be difficulty and we will take them up later.

Mr. ISNOR: Is that the only clause which is standing?

The VICE-CHAIRMAN: We have ten clauses, altogether.

Mr. FLEMING: Was clause 94 stood over?

The VICE-CHAIRMAN: Yes.

Shall clause 96 carry?

Mr. ASHBOURNE: With reference to clause 96 does that mean that all claims of the other creditors have to be paid one hundred per cent?

The WITNESS: Yes, that is what it means, Mr. Ashbourne.

Mr. FLEMING: There is no change in the substance of the law. There is only a change in the draftsmanship.

Mr. ASHBOURNE: I presume that the reason is that the wife or husband, as the case may be, may be a partner of the bankrupt.

Mr. FLEMING: It is more than that: it would be so easy to defeat the whole distribution and equitable treatment of creditors if the husband or wife could come in and rank as creditors.

The VICE-CHAIRMAN: Clause 96?

Carried.

Clause 97?

Carried.

Mr. FLEMING: There have been no representations about the extent of relationship of people, as distant as aunts and uncles? I sometimes wonder if uncles and aunts are not a little distant to include in the scope of relatives for this purpose. Is Mr. MacDonald aware of any case under that clause?

The WITNESS: No I am not, Mr. Fleming, and as you said there have been no representations on those two points. I mean I am not aware of any cases of representation as to injustice.

The VICE-CHAIRMAN: Clause 97?

Carried.

Clause 98?

Carried.

Clause 99? There was a representation made by the Canadian Bar Association which was adopted and the words "in any capacity" have been added.

Mr. FLEMING: They made one other suggestion that was not adopted. They wanted it to apply only to wages of a person in his capacity as a

director or officer, not to claims arising in other ways. I suppose the theory is that anybody who accepts election as a director does so with his eyes open and knows that he is running risks. Have there been any representations especially as to the inclusion of officers in the scope of this provision? There might be a case to distinguish between officers and directors for this purpose.

The WITNESS: The only representations are those mentioned on page 28 that you have there on the so-called compendium.

Mr. FLEMING: You see, in small companies a man who holds an office may be in effect just a salaried worker.

The VICE-CHAIRMAN: You will note that the Canadian Bar Association, after having represented that it should apply only to wages and then after some explanation by members of the Senate, I suppose, turned around and asked that the words "in any capacity" be added.

The WITNESS: They said "If you are not going to accept our first recommendation, please accept our second recommendation and clarify it definitely" and their second recommendation was adopted by adding the words "in any capacity."

Mr. BREITHAUP: Since clause 99 is more or less contingent on clause 95 and as you allowed clause 95 to stand would it not be well to allow clause 99 to stand until you determine what clause 95 is to be?

The WITNESS: No. Clause 99 is scarcely related to the same matter as clause 95. Clause 95 settles the priorities.

Mr. BREITHAUP: It says in here "as provided by section 95."

Mr. CANNON: Clause 99 does deal with priority.

The WITNESS: But clause 99 deals only with the special case of the officer or director of the corporation.

Mr. FLEMING: There is no new principle in clause 99.

The WITNESS: It is the same as the present section 118 with, for clarification, the addition of the words "in any capacity".

Mr. BREITHAUP: So whatever change is made in clause 95 will not affect clause 99?

The VICE-CHAIRMAN: No.

Shall clause 99 carry?

Carried.

Clause 100?

Carried.

Clause 101?

Mr. FLEMING: There was one question here about subclause 4. I see it was suggested by the Toronto Board of Trade that the subclause be clarified by the addition of the words "of the other or others" after "property". What was the actual change made that was designed to bring about the clarification by "of the other or others" as proposed by the Toronto Board of Trade?

The WITNESS: If you will follow the text before you now I will read section 59 as it is in the Act:

Where a bankrupt owes or owed debts both individually and as a member of one or more different co-partnerships, the claims shall rank first upon the property by which the debts they represent were contracted and shall only rank upon the other or others after all the creditors of such other estate or estates have been paid in full.

Mr. FLEMING: There is no other change in substance here.

The WITNESS: No change in substance.

The VICE-CHAIRMAN: Clause 101?

Carried.

Clause 102?

Carried.

Clause 103?

Carried.

Mr. FLEMING: It is not very often we have occasion to apply that, Mr. Chairman.

The WITNESS: There was a case once.

The VICE-CHAIRMAN: Clause 104?

Carried.

Clause 105?

Carried.

Clause 106?

Carried.

Clause 107?

Mr. FLEMING: Mr. Justice Urquhart's suggestion on clause 107 was not adopted, I see, Mr. Chairman.

The WITNESS: No, it was felt that we have sufficient control over the trustees through the office of the superintendent and through his amenability to the court if he does not carry out the provisions of the Act.

The VICE-CHAIRMAN: Supervision powers are given in clause 160.

Mr. FLEMING: Well, I gather the feeling in the Senate was that it should not attempt to blend with the subject matter of clause 107 the subject of the suggestion of Mr. Justice Urquhart.

The WITNESS: And as to restoring section 74, clause 107 contains the substance of section 74 but is somewhat more flexible. Instead of tying the trustees down to times and amounts it provides that he shall make a distribution or declare a dividend from time to time as required by the inspectors, who are the representatives of the creditors, and it seems to me a more practical arrangement than tying him down to arbitrary times and amounts.

Mr. CANNON: The sections might act as a guide to the trustee as to when the dividends should be declared, but as the article is now there is no guide left to their judgment.

Mr. FRASER: But then there is the other angle, Mr. Chairman, that you might have nine or nine and a half per cent of it in, to divide, and that might extend over many months.

Mr. CANNON: But under section 74 of the old Act, it said:

A further dividend shall be paid whenever the trustee has sufficient moneys on hand to pay to the creditors ten per cent, and more frequently if required by the inspectors, until the estate is wound up and disposed of.

So the inspectors, even though the trustee may not have ten per cent, have the right to ask for a distribution?

The WITNESS: These inspectors, as you know, are appointed by the creditors; they are dealing with their own property; they are subject to a direction by the creditors and subject to removal or replacement by the creditors, so they should reflect pretty closely the wishes of the body of creditors.

Mr. HUNTER: Subclause (3) has fairly wide powers.

Mr. FLEMING: I was wondering if you should confine the creditor's rights to apply to the one case where the trustee has refused, after being requested to do so by the inspectors. In many cases you will have only a very small group of inspectors and they are usually representatives of the largest creditors,

—they do not always reflect the point of view of the smaller creditors,—and for some reason or other they think it inadvisable for the trustee to expedite the payment of dividends. Your small creditor, apparently, can apply only if he, the trustee, refuses or fails, after having been directed to do so by the inspector. That is a lot of power to put into the hands of the inspectors.

Mr. ISNOR: I suppose that is pretty well covered; it applies not only to creditors but to any creditor.

Mr. FLEMING: No, it only applies when the trustee refuses to follow the direction of the inspector.

Mr. HUNTER: That is where the trustee has failed to comply with a direction.

Mr. CANNON: You cannot place any blame for that on the inspector if he fails to act.

Mr. HUNTER: I don't know, it may be there is a little doubt about this. There may be some difficulty about it; if the creditors get hot about it they just direct distribution.

The WITNESS: And the aggrieved creditor would still have his access direct to the court by way of complaint.

Mr. HUNTER: And he would have the other remedies under the Act.

The WITNESS: Yes.

Mr. HUNTER: I think there is something in the point you raised, Mr. Fleming, but I am not sure whether it is terribly practical.

Mr. FLEMING: I cannot point to any specific case. I can conceive of situations where the inspectors, representing the larger creditors, could be arbitrary and in that way the policy is determined in distribution. Mr. Chairman, I would think there would be a very grave doubt as to whether clause 15 applied to override the provisions of this clause 107. You see, you have very plain terms in subclause 3 of clause 107, without any action with respect to the trustees, except in that case where the trustee refuses after having been directed to distribute by the inspectors.

The WITNESS: No action against him lies, but I think the creditor would still have his right of appeal under clause 15. The real purpose of subclause 3 of clause 107 seems to me to provide that in case of that presumably unreasonable request the creditor is then personally responsible for interest.

Mr. FLEMING: The trustee.

The WITNESS: Yes, the trustee.

Mr. FLEMING: If clause 15 applies then I think we need not worry about subclause 3 of clause 107.

The VICE-CHAIRMAN: It is of interest.

Mr. FLEMING: Could we not clarify it usefully, though, by inserting at the beginning of subclause 3 of clause 107 the words "subject to the provisions of clause 15"?

The VICE-CHAIRMAN: Do you think it is not subject to that now?

Mr. CANNON: I do not think clause 15 applies.

The VICE-CHAIRMAN: I think it would.

Mr. CANNON: The effect of that will be this, that he will be stuck, there will be no remedy.

Mr. HUNTER: He has no relief at the present time, except by address to the inspector.

Mr. CANNON: You cannot say that you are aggrieved by the act of a trustee; as I see it, this applies only where there is a direction by the inspector.

Mr. HUNTER: The inspectors are chosen by the creditors, and while we try to protect the minorities I think on the point of law this is hardly workable.

Mr. FLEMING: I must say, Mr. Chairman, that on the point of law, as a matter of legal argument, I agree with Mr. Cannon. I am just wondering if we could avoid a situation arising at some time by a simple amendment to subclause 3. Maybe we had better leave this one over for further consideration, Mr. Chairman.

The VICE-CHAIRMAN: We will let the section stand and the superintendent will prepare a report for us on the matter.

Mr. ISNOR: I would just like to get an expression of opinion on this; we have been referring to clause 15 and to clause 107. Does not clause 15 come under that section dealing with the powers of the trustee? If so, then I think that clause 15 does apply, with all due respect to my legal friends.

The VICE-CHAIRMAN: That is a question which I want the Superintendent of Bankruptcy to examine thoroughly and report upon, later.

Mr. FLEMING: I think we had better leave that.

The VICE-CHAIRMAN: Yes.

Mr. HUNTER: He can make a decision on it and still be wrong.

The VICE-CHAIRMAN: Clause 108:

Mr. CANNON: Subclauses 1 and 2 are not changed.

The VICE-CHAIRMAN: There is a change in subclause 1 which was suggested by the Toronto Board of Trade.

Mr. FLEMING: And there was a change made in subclause 2, also.

The VICE-CHAIRMAN: Yes there was a change made in both subclause 1 and subclause 2.

Mr. FLEMING: And I understand that the change suggested in subclause 2 was at the instance of the Department of National Revenue.

The VICE-CHAIRMAN: Mr. MacDonald, could you give us the reasons brought forward by the Toronto Board of Trade for the change they suggested and which was adopted in subclause 1 of clause 108?

The WITNESS: Suggested by the Toronto Board of Trade that the subclause be made permissive rather than mandatory.

The VICE-CHAIRMAN: Was the former section 75 mandatory?

The WITNESS: Former section 75 read; the trustee may at any time after the first meeting give notice by registered mail.

The VICE-CHAIRMAN: Oh, it is the same.

The WITNESS: And the present goes back apparently to the original text; "may" seems to be more appropriate than "shall".

The VICE-CHAIRMAN: Yes.

The WITNESS: It seems to be a matter which should be in the discretion of the trustee. Would you like me to read the comments of the Toronto Board of Trade?

The VICE-CHAIRMAN: Yes.

The WITNESS: Section 110, subsection 1 (this refers to a prior bill but it is on the same section) requires the trustee to give notice by registered mail to every person with a claim of which the trustee has notice or knowledge and whose claim has not been proved. This can be a very costly matter in the case of certain estates where there are a large number of creditors, sometimes running into thousands with very small claims; subscribers to magazines are instances of the type of estate referred to; and consequently the subclause should be permissive rather than mandatory in form, and this "shall" in line 1 should be changed to "may".

The VICE-CHAIRMAN: What about subclause 2? There was a suggestion by the bar of the Province of Quebec; but I think the explanation given on the opposite page there is not quite clear.

Mr. HUNTER: Clause 108 might have some bearing on clause 107 because it is mandatory there; the trustee will proceed to declare dividends, etc.

The VICE-CHAIRMAN: No.

The WITNESS: No, I do not think so.

Mr. CANNON: I do not quite understand what it says here.

The VICE-CHAIRMAN: I do not think it is a proper translation of what they intended.

The WITNESS: I must say that I never heard the expression before.

The VICE-CHAIRMAN: As they say here, it must have been a bad translation.

Mr. FLEMING: That is in the compendium.

Mr. CANNON: In the last line of clause 108, subclause 4 it says, "until the expiration of ninety days after the trustee has filed all returns which he is required to file"; what returns are these?

The VICE-CHAIRMAN: That refers to income tax returns.

Mr. CANNON: I was just wondering if we should not have the word "tax" in there.

The VICE-CHAIRMAN: No, the subclause is all on income war tax or income tax, so it refers only to the subject of taxation.

Shall clause 108 carry?

Carried.

Clause 109?

Carried.

Clause 110—there is no material change and no representations have been made. Carried.

Clause 111—this is a new section.

Mr. HUNTER: That is more of an accounting section is it not?

The VICE-CHAIRMAN: Yes.

The WITNESS: That is the current practice, but there is no obligation in the Act at the present time and it is considered that there should be.

Mr. FLEMING: In the Senate committee they eliminated practically all reference to the time element in subclause 3. What was the reason for the complete elimination of the time element in subclause 3 and subclause 5?

The WITNESS: I believe that these tie in together, Mr. Fleming—I will have to just read that for a moment. It appears that the idea was to take out the thirty days because that made an unnecessary delay, sometimes, in sending out the statement, and then to safeguard the matter in subclause 5 by making the comments of the superintendent a condition precedent to the taxation of the accounts. So that, in effect, instead of saying you must wait thirty days before you send out the statement, it says the comments or advice of the superintendent must be received before the account is taxed. It achieves the same purpose without necessarily imposing that thirty day delay. If the superintendent gets his comments back in time, as we hope he will be able to do, the trustee then is not held up for the thirty day period.

Mr. HUNTER: Why does it not read that way?

The WITNESS: I will read you subclause 3 which was changed:

The trustee shall then forward a copy of the statement and of the dividend sheet to the superintendent after they have been approved by the inspectors and at least thirty days before mailing those documents to the creditors.

Clause 5 read:

After the trustee's accounts have been taxed and after the expiration of the time provided in subclause 3, the trustee shall forward by registered mail to every creditor whose claim has been proved—to the registrar and to the superintendent and to the bankrupt—and then it continues as it is shown in this bill.

Mr. STEWART: Have you any backlog of such statements or can you handle them as they come along?

The WITNESS: We are able to handle them with reasonable expediency.

By Mr. Fleming:

Q. What is the average length of time?—A. Frequently the same day—the same day or the next day in ordinary times. I am not speaking of the present two or three weeks when we are working on a thing like this. We have a very unusual situation now but in ordinary times they are put out very promptly.

Q. Has there been at any time an expression of opinion that the trustee's comments ought to accompany the material the trustee sends to the creditors?—A. No, I cannot say that there has been.

By Mr. Ashbourne:

Q. Who is the taxing officer?—A. That is generally the registrar of the bankruptcy court.

Q. Do accounts have to be passed to any other department of the bankruptcy court except to the superintendent?—A. No.

The VICE-CHAIRMAN: Shall the clause carry?

Carried.

Clause 112?

Carried.

Clause 113?

Mr. FLEMING: There were some representations on this clause.

The VICE-CHAIRMAN: Yes, relating to the period. The Toronto Board of Trade represented that the period should be reduced from six months to sixty days.

Mr. FLEMING: What has become of the time limits?

The VICE-CHAIRMAN: They have been dropped.

The WITNESS: This is a suggestion that the old section be restored but that the period be reduced. The suggestion is that the period in the old section be reduced from six months to sixty days.

The VICE-CHAIRMAN: Now there is no time limit.

The WITNESS: That is correct.

The VICE-CHAIRMAN: Yes.

The WITNESS: Section 82 read that the trustee shall, not later than six months after he is at liberty, pursuant to the provisions of this Act to distribute the proceeds, pay to the Receiver General all declared but unpaid dividends in his hands and, at the same time, provide a list of names and addresses of the creditors so entitled.

Mr. CANNON: The change is that he will be able to do that beforehand. It is a good change.

The VICE-CHAIRMAN: Shall the clause carry?

Carried.

Clause 114. This is new, dealing with summary administration.

Mr. FLEMING: Were there any representations received in regard to 114(e)?

The VICE-CHAIRMAN: I do not see any.

The WITNESS: No, there do not appear to have been any representations.

Mr. FLEMING: Will you tell us a little more about the representations of the Toronto Board of Trade, the Canadian Bar Association and the official receiver at London that summary administration of estates be not placed in the hands of the official receiver?

The WITNESS: Perhaps I could most effectively answer this if I were permitted to speak off the record.

(Short discussion off the record.)

Mr. ISNOR: The estates which the superintendent has in mind are all very small in this particular instance?

The VICE-CHAIRMAN: The provision governing them is contained in clause 26.

Mr. ISNOR: Under \$500?

The VICE-CHAIRMAN: Yes, in the sense that the \$500 is the amount that can be realized.

Mr. CANNON: It is less than \$500 for ordinary creditors, but there may be several thousand dollars involved.

Mr. FLEMING: Was that one of the clauses that was left over?

The VICE-CHAIRMAN: No.

Mr. FLEMING: I question, in my own mind, whether that limit was not too low to make the sections on summary administration helpful.

The VICE-CHAIRMAN: Quite often you find that the assets do not exceed \$500.

Mr. FLEMING: I shall not press the point now but before we are finished I shall raise the question of whether \$500 is or is not too low an amount to bring the summary administration provisions into effect.

Mr. HUNTER: I think it is a point that is well taken and it should be seriously considered.

The VICE-CHAIRMAN: Yes. In your experience, Mr. MacDonald, is it not true that there are a lot of bankruptcies in which the assets are under \$500?

The WITNESS: There will be; there are quite a lot of cases which will fall under the summary administration provisions of the act at the present time, and it was felt that to begin with the amount should not be placed higher than \$500 until experience at least with the working out of what is a new part of the act leads us to believe that it should be increased. We are breaking new ground and it was felt desirable to set our sights at a fairly conservative height.

Mr. FLEMING: Well I think there is general support for the summary administration. I think we have all felt that there has been a real need for that provision in the act but \$500 is a very small sum. It is true that it is the amount that is to be available for distribution among the ordinary creditors but it strikes me that it is too small, even as an experiment and on the basis which Mr. MacDonald has mentioned. Five hundred dollars is not a large enough figure even under present conditions when the dollar is worth so little.

Mr. CANNON: I am inclined to agree with Mr. Fleming. I would think \$1,000 would be more practical.

Mr. FLEMING: Yes. An estate of \$1,000 is still a very small estate.

Mr. HUNTER: If an estate is only worth \$500 it has been my experience that people do not follow this procedure through.

The VICE-CHAIRMAN: Mr. Larose tells me there is quite a large proportion of bankruptcies in which the assets are below \$500, quite a good proportion.

And Mr. MacDonald says he can get the exact figures for the last two years, or for 1948; so I believe that before reaching any decision, we should look at the figures. Would that not be reasonable?

Mr. FRASER: And let this clause stand.

The VICE-CHAIRMAN: We will refer to clause 26 sub-clause (6), and let it stand.

The WITNESS: I would just like to add that I am not putting clause 114 on the basis of an experiment. It is something which has been carefully considered and thought out. The idea which I meant to convey was that at the present time and until it is seen just how it works, I would not like to see the amount set higher than it is now. It is a new provision. It has not been in the Act before. And if, at the end of the first year, it turns out that it is too low, it can then, and with justification for the change, be put up more easily than it can be changed downward.

By Mr. Fraser:

Q. Might I ask, Mr. Chairman, what proportion of the increase in bankruptcies this last year would be under \$500?—A. I could not speak to that offhand.

Q. Is it quite a large number?—A. I would think offhand it would be a fairly large number, but I shall endeavour to get the figure for you, Mr. Fraser.

The VICE-CHAIRMAN: We will let clause 26, subclause (6) stand. That does not prevent us from looking over clauses 114, 115 and 116. Shall clause 114 carry?

Carried.

Shall clause 115 carry?

Carried.

Shall clause 116 carry?

Carried.

Now, clause 117 "Duties of Bankrupts".

By Mr. Fournier:

Q. What are the sanctions applicable to those who neglect to observe the regulations concerning the duties of a bankrupt?—A. I refer you to the penalty clauses which start on page 94.

The VICE-CHAIRMAN: Under "Bankruptcy Offences".

By Mr. Fournier:

Q. Oh yes.—A. Clause 156, paragraph (a) refers generally to clause 117.

By Mr. Fleming:

Q. I think the point is well taken there in relation to the suggestion of the Toronto Board of Trade, that the question of intent does not concern paragraphs (f) and (g) of clause 117. Clause 117 is only concerned with disclosure. It is right that there should be disclosure regardless of the intent attached to the particular transfer or disposition of property. It remains for other clauses then to declare the law as to what may be done in the light of that disclosure.—A. You are referring now to what?

Q. To paragraphs (f) and (g) of clause 117.—A. Paragraph (f) reads:

(f) make disclosure to the trustee of all property disposed of within one year preceding his bankruptcy, or for such further antecedent period

as the court may direct, and how and to whom and for what consideration any part thereof was disposed of except such part as had been disposed of in the ordinary manner of trade or used for reasonable personal expenses;

Paragraph (f) does not mention intent.

Q. And the same with respect to paragraph (g), there is nothing said there about intent. My point is: I do not see any reason why intent should enter into clause 117 anyway because here you are laying upon the bankrupt a duty of disclosure regardless of the intent which accompanied the disposition or transfer of property. Now, as to what may follow from intent as applied to this disposition, that is for some other section of the Act to determine. It does not seem to me that intent is mentioned at all in clause 117. I understand that representations were made to the effect that intent ought to be introduced in paragraphs (f) and (g).

By Mr. Fraser:

Q. May I ask if clause 117 paragraph (g) was suggested by the Income Tax Department?—A. May I have your question again?

Q. May I ask if this paragraph (g) of clause 117 was suggested by the Income Tax Department?—A. Not to my recollection, Mr. Fraser. It ties in with the previous clause 60. And paragraphs (f) and (g) are related to subclauses (1) and (2) respectively of clause 60.

Mr. ISNOR: Suppose a man felt justified in making certain contributions or gifts. He would have to give the reason because of changing conditions.

Mr. FULTON: Clause 60 subclause (2) said it would not be void, that the property could only be taken if at the time of making the settlement five years previously his debts at that time could not have been paid except if the property was taken into consideration.

The VICE-CHAIRMAN: I think it is intended to cover the case of a bankrupt who in the previous year has entered into contracts or has made gifts when he was insolvent. It has to be there.

Mr. FLEMING: It is only disclosure anyway.

The VICE-CHAIRMAN: It is only disclosure anyway, and it has to be there. It is a good thing that it is there.

Mr. FLEMING: Yes.

Mr. ISNOR: The point I was raising was about the period of five years.

By Mr. Cannon:

Q. In clause 60, subclause (2)?—A. It is the disclosure of information necessary to allow the trustee to take advantage of clause 60.

The VICE-CHAIRMAN: What about this suggestion of the Toronto Board of Trade concerning clause 117 (i)?

Mr. HUNTER: Why do you want that?

The VICE-CHAIRMAN: "That the bankrupt be required to provide the trustee with income tax returns". Why would they suggest that?

Mr. ISNOR: So that they would have a statement of his financial affairs. Would they not be interested in it from an accounting standpoint, Mr. Stewart?

Mr. STEWART: I would think so. We pretty well accept the assessment of the Income Tax Department as being a statement of affairs.

Mr. FULTON: Does a trustee have access?

The VICE-CHAIRMAN: To all books, and everything?

By Mr. Fulton:

Q. Does a trustee have access to the official assessment in the custody of the Department of National Revenue in the case of a bankrupt?—A. Oh no, no.

Mr. HUNTER: But if the bankrupt consents in writing, the department will make that information available.

Mr. STEWART: Would not that be covered under clause 117(b), according to which the bankrupt has to:

(b) deliver to the trustee all books, records, documents, title deeds, writings, papers or insurance policies relating to his property or affairs;

Mr. FLEMING: I do not think there would be any harm in putting it in if there is any doubt about it.

Mr. STEWART: It is normally regarded as part of the records of the business.

Mr. FLEMING: Suppose a natural person has become bankrupt.

Mr. STEWART: That would be a different proposition, unless he became bankrupt as an individual.

The VICE-CHAIRMAN: Mr. MacDonald is of the opinion that paragraph (b) covers income tax returns.

Mr. FLEMING: Paragraph (b)?

The VICE-CHAIRMAN: Yes; clause 117 paragraph (b) covers copies of income tax returns which he may have in his possession.

Mr. HUNTER: If he has a copy of his T-1 return, I suppose.

Mr. FLEMING: With all due respect, I would think it is sufficiently doubtful that it ought to be put in. Let us forget at the moment the case of a corporation. It may be clearer in the case of a corporate bankrupt; but let us take the case of an individual going into bankruptcy. He might say: "my income tax returns are not books, they are not records, they are not documents, and they are not title deeds or writings, papers or insurance policies relating to my property affairs."

Mr. FULTON: It must relate to his affairs.

Mr. FLEMING: We might have debatable differences of opinion on the point here in this committee, but if it were agreed that the bankrupt had copies of his income tax returns and assessments available, it is the easiest thing in the world to put it in and make it perfectly clear.

The VICE-CHAIRMAN: There is no objection.

Mr. FLEMING: Income tax assessments and copies of returns.

The VICE-CHAIRMAN: There is no objection.

Mr. CANNON: But would you not have to put a limit on it of five years?

The VICE-CHAIRMAN: That he has in his possession copies; all right.

By Mr. Fleming:

Q. Does Mr. MacDonald want to draft an amendment?—A. I shall draft an amendment and submit it later.

The VICE-CHAIRMAN: That is quite all right. So we will let clause 117 stand, I mean clause 117 paragraph (j).

Mr. FULTON: You do not mean the whole clause, do you?

The VICE-CHAIRMAN: Whatever the committee wishes.

Mr. FULTON: I suggest that we carry it all but (b) then.

The VICE-CHAIRMAN: All right, we will do that. So paragraph (b) of clause 117 stands. I do not know if the suggestion of the Toronto Board of Trade would limit the meaning of paragraph (j). He would be required by the court, as a matter of fact.

Mr. FLEMING: You are speaking of paragraph (j) now?

The VICE-CHAIRMAN: Of paragraph (j), yes.

Mr. HUNTER: I do not wish to seem technical.

Mr. CANNON: Referring to subclause (2) of clause 121:

(2) Upon the application of any creditor or other interested person to the court...

I do not think we should ask that it be done by the trustee. The answer is in the Act.

Mr. HUNTER: I do not wish to appear technical, but paragraph (b) of clause 117, I presume, is only supposed to relate to those books, records, documents, title deeds, and so on which are in his possession.

The VICE-CHAIRMAN: It cannot have any other meaning.

Mr. HUNTER: I submit it might have. He might be expected to go out and find all sorts of documents which relate to his property and affairs.

The VICE-CHAIRMAN: It is a question of delivery. The word "delivery" includes the meaning that one has to have it in his possession to deliver.

Mr. HUNTER: Yes, but one can go out and get possession and deliver. I admit it is a technical point anyway.

Mr. FLEMING: I suppose the words that could be introduced there would be the familiar words from discovery "in his possession or power".

The WITNESS: It would be such a simple matter for him to put documents out of his possession and power.

Mr. CANNON: I was thinking of that. If you put that in you will open the door to him.

The WITNESS: And in a prosecution I do not think he would be expected to do the impossible, that is if he were entirely free from blame and could explain why he had no control over them, I should not think he would be liable to a conviction.

Mr. HUNTER: Well, it is probably a technical point. I do not want to delay the proceedings on that ground.

The VICE-CHAIRMAN: We will pass clause 117 with the exceptions of subclause (b) which stands.

Mr. FULTON: What about subclause (l). I see there are no comments on it but perhaps Mr. MacDonald would care to offer a comment. It seems to me here to be fairly drastic. Is it altogether new or is it contained in some previous Act.

The WITNESS: It was formerly section 131, subsection (2) and it read like this:

—execute such powers of attorney, conveyances, deeds, and instruments, and, generally, do all such acts and things in relation to his property and the distribution of the proceeds—

Mr. FLEMING: There is a problem now: "as may be required;" in clause 131 (2) of the present Act the word "required" is followed by:

—by the trustee, or may be prescribed by general rules, or may be directed by the court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the trustee, or any creditor or person interested.

Are you not leaving that in the air by just chopping it off after the word "required"? Required by whom?

The WITNESS: I would say required by anybody who under the Act is entitled to apply to him for such a power of attorney or conveyance.

The VICE-CHAIRMAN: Personally, Mr. Fleming, I never have much faith in long enumerations that we find in statutes.

Mr. FULTON: As required, by whom?

The VICE-CHAIRMAN: It means the person who requires them. You do not have it specifically set out in the Act but it implies that.

The WITNESS: It fits in with the obligation of a trustee to do everything reasonably within his power to facilitate the administration of the estate by the trustee to enable him to dispose of the assets and so forth.

Mr. STEWART: But does this take in any more territory? I doubt it.

The VICE-CHAIRMAN: But we do not need to cover everything; that is what I mean.

Mr. STEWART: I do not see any need for it either.

Mr. FLEMING: That is fine, Mr. Chairman; but do we find it set out in the Act elsewhere? The stipulation that the bankrupt shall execute such powers of attorney, conveyances, deeds and instruments as may be required of him by the trustee.

The WITNESS: Mr. Fleming's point, as I understand it, is that there is nothing in the present law to correspond with the words, "as may be reasonably required by the trustee" in the present section.

Mr. FLEMING: Who determines that he may be required to do that? The old section 131, subsection 2, said, "as may reasonably be required by the trustee, or may be prescribed by general rules, or may be directed by the court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the trustee, or any creditor or person interested".

Mr. STEWART: Which makes the thing wide open.

Mr. FLEMING: We will have to consider that point further. I suggest we had better let it stand and come back to it again later on.

The WITNESS: I think that "required" in this context would be considered as required according to the provisions of the Act. I should not think that it would be interpreted in a way to take in anything not intended by the Act.

The VICE-CHAIRMAN: That is a very very important point.

Mr. FLEMING: Agreed. Where do you find in the Act that specific provision which says that a bankrupt shall execute such powers of attorney, conveyances, deeds and instruments as may be required of him by the trustee. It seems to me that the language here means that the bankrupt must execute these documents—may be required; is there any section anywhere in the Act which gives the trustee the power to require that of him?

The VICE-CHAIRMAN: We will have to go back to the powers of the trustee.

The WITNESS: Would you read paragraph (o): generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors as may be reasonably required by the trustee, or may be prescribed by general rules, or may be directed by the court by any special order made with reference to any particular case or made on the occasion of any special application by the trustee, or any creditor or person interested.

Mr. FULTON: But that is in (l).

Mr. FLEMING: Isn't that the way out; because if you have a specific definition in (o) as in (l) you would have to apply that maxim "*Expressio unius est exclusio alterius*"; so as to have the same provisions in (o) as you have in (l).

Mr. CANNON: The court may decide there was a reason for not inserting in (l) what you have there in (o).

The VICE-CHAIRMAN: Anyway, would it not be covered by the powers of the trustee? Would it not be covered by clause 8, subclauses 7, 8 and 9—page 12? I am not saying it does, but I am asking that question.

Mr. FLEMING: The only thing there is it requires the bankrupt—

The VICE-CHAIRMAN: —to carry on the business of the bankrupt.

Mr. FLEMING: Those are the powers of the trustee. Where does the trustee there get the power to require the bankrupt to execute powers of attorney, conveyances, deeds and instruments? I think Mr. Fulton's suggestion is the solution; to combine (l) and (o). That would bring it closer to the language of the present Act.

The VICE-CHAIRMAN: Yes.

The WITNESS: (l) and (o)?

The VICE-CHAIRMAN: Could you make a draft accordingly?

Mr. FULTON: Would it not be just; execute such powers of attorney, conveyances, deeds and instruments as may be required; and then to do—as is provided in (o).

Mr. FLEMING: Just as in the present clause 131, subclause 2.

The WITNESS: Will you leave that to be worked out later, Mr. Chairman?

The VICE-CHAIRMAN: Yes.

Clause 118.

Carried.

Mr. CANNON: May I make a suggestion in connection with the consolidation of paragraphs (l) and (o)?

The VICE-CHAIRMAN: Are you speaking of clause 117?

Mr. CANNON: Yes. If you consolidate those two paragraphs it seems to me that you do not need the words "as may be required" at the end of (l).

Mr. FULTON: Yes, I noticed that.

The VICE-CHAIRMAN: Clause 119?

Carried.

We shall adjourn until 3.30 p.m. this afternoon.

AFTERNOON SESSION

The Committee resumed at 4.00 p.m.

Mr. T. D. MacDonald, K.C., Superintendent of Bankruptcy, recalled:

The VICE-CHAIRMAN: Gentlemen, we have a quorum. When we adjourned this morning we were at clause 120. Does clause 120 carry?

Carried.

Mr. HUNTER: May I just understand the purpose of that? I do not quite follow it.

The WITNESS: Pardon me.

Mr. HUNTER: I do not quite get the purpose of clause 120. It is mandatory, I notice.

The VICE-CHAIRMAN: You have an explanation at page 30 of the compendium where it says:

...the Official Receiver should probe deeply into the causes of the debtor's insolvency, the disposition of his assets, etc. Unfortunately at present this is done in very cursory fashion by all too many and considered more as a mere formality. The report would indicate to the trustee a probable course of action and at least suggest questionable aspects of the bankruptcy which might call for further investigation. The filing of the report in court would make it a matter of record and available in connection with future proceedings such as the debtor's application for discharge. Forwarding a copy to the Superintendent would keep him advised and this step would also fit in with the somewhat similar obligation contained in Section 163 of the Bill. As a matter of fact Section 120 of the Bill only confirms the present practice and makes it obligatory.

Mr. BELZILE: When a man makes an assignment he files of course, his statement of affairs, assets and so on and he comes before the official receiver and then the official receiver has a whole set of questions referring to what has happened to his property five or ten years ago and so on, how it was disposed of, so as to find out if there were any fraudulent acts or fraudulent disposition of his property.

Mr. HUNTER: That is practical, is it?

Mr. BELZILE: It is.

Mr. HUNTER: I would judge from this they had gone into it a very great deal more thoroughly than before. I presume you have checked with the registrars and they are prepared to do this. They have the time and all that kind of thing,—I mean the official receivers?

The VICE-CHAIRMAN: They must have the time.

Mr. BELZILE: It is done before the first meeting.

Mr. HUNTER: It is not my impression that it is done very thoroughly. It is sort of a routine thing at present, very routine, they have a form they use and so on.

Mr. BELZILE: But on the set of questions there is always some lead given to the official receiver which allows the official receiver to probe into the very personal affairs of the bankrupt.

Mr. HUNTER: I have been in quite a few of these and they strike me as about as routine a task as you would ever see.

The WITNESS: One of the purposes of this is to endeavour to correct that situation.

Mr. HUNTER: And I presume that the registrar has the time to do this.

The VICE-CHAIRMAN: As the witness said this morning, the registrar is usually an officer of one of the high courts in the district and they deal fairly well with the bankruptcy Act.

The WITNESS: Yes, we hope to make those reports fuller though.

The VICE-CHAIRMAN: Clause 120?

Carried.

Clause 121? What about the suggestion of the Canadian Bar Association and the American Can Company,—the third paragraph of the compendium on page 31?

The WITNESS: The comments are here. That was not adopted.

Mr. HUNTER: To which one are you referring?

The VICE-CHAIRMAN: The proposition was made, I suppose, in order to get the bankrupt before a judge to impress upon him the importance of telling the truth.

The WITNESS: That is correct, but it was considered an entirely unworkable provision.

The VICE-CHAIRMAN: Now, referring to what we discussed a few moments before the meeting started.—Mr. MacDonald proposed, in line 15 of subclause 1 of clause 121, to replace the last words of the paragraph: “the trustee or any creditor” by the words “his dealings or property”. Will you explain that, Mr. MacDonald?

The WITNESS: The reason for that is that the underlined words were added in the Senate to the clause; they went over to clause 121, subclause (2), and the words borrowed are “relating in all or in part to the bankrupt, the trustee or any creditor.” But the words “trustee or any creditor” obviously are not consistent with the context, and the words which should be used are the same words that occur earlier in the same subclause, that is: “bankrupt, his dealings or property” in line 12.

The VICE-CHAIRMAN: The first part of the paragraph is for the examination under oath and then in line 12 it starts again: “and may order any person liable to be so examined to produce any books,”. It should be to the same thing or persons as in the case of the examination.

The WITNESS: Yes.

Mr. HUNTER: I do not quite get your point there. The wording seems the same.

The WITNESS: If you look at line 12, what the subclause does is to provide that the trustee may examine under oath any persons—I am omitting the immaterial words—thought to have knowledge of the affairs of the bankrupt et cetera. Now, he can examine him respecting the bankrupt's dealings or property. That is line 12, that is the matter in respect of what he examines the person: the bankrupt, his dealings or property; and then the subclause goes on to say: “He may order him to produce books, documents, correspondence relating in all or in part”; and there they should relate to the same thing in respect of which the man may be examined, that is relating in all or part to the bankrupt, his dealings or property.

Mr. HUNTER: I get it.

The VICE-CHAIRMAN: Will you move the amendment, Mr. Hunter.

Mr. HUNTER: Yes.

The VICE-CHAIRMAN: Does the amendment carry?

Mr. FULTON: Move the amendment?

The VICE-CHAIRMAN: Yes, we are replacing the words in line 12, “the trustee or any creditor”—we are replacing those words by the words “his dealings or property”.

Mr. FULTON: I will second it. With regard to subclause (3), do you want to put a question on that? Is it taken as carried?

The VICE-CHAIRMAN: Clause 121 carried as amended.

Mr. FULTON: Has the amendment carried?

The VICE-CHAIRMAN: Yes.

Mr. FULTON: With regard to subclause (3), then, what was the provision of clause 138, which is no longer here? What protection is there afforded by subclause (3) here?

The WITNESS: What was the question, Mr. Fulton?

Mr. FULTON: Looking at the comments in these notes, I see the Toronto Board of Trade suggested that there should be restored the provisions of clause

138 of the Act requiring any person to answer questions even though the answers might incriminate him or expose him to civil liability. What is the provision of clause 138 which exposed a person to that liability and how is he protected by the present clause from it?

The WITNESS: The old section 138 provided as follows:

Any person liable to be examined under the provisions of the ten last preceding sections shall be bound to answer all questions relating to the business or property of the debtor, and as to the causes of his insolvency and the disposition of his assets, and shall not be excused from answering any question on the ground that the answer may tend to criminate the person so examined or to establish his liability in any civil action, and all or any of the questions and answers upon any examination under the four next preceding sections may be given in evidence against the person so examined on any charge of an offence against this Act and in any civil action or proceeding brought by, or on behalf of, the trustee or of any creditor or creditors entitled to take such action or proceedings.

So he was not protected, Mr. Fulton, before.

Mr. FULTON: Before. But now would he not be in contempt if he refused to answer?

The VICE-CHAIRMAN: Yes.

Mr. FULTON: Even under this clause?

The VICE-CHAIRMAN: He would be in contempt, yes.

The WITNESS: Are you looking at clause 125?

Mr. FULTON: No I was looking at clause 121, subclause (3) reading it in the light of the comments with which we have been furnished. In other words it seems to me that according to the comments it is felt this clause gives a protection to a person against answering a question. I ask, would he not in effect be in contempt, if he refused to answer?

The VICE-CHAIRMAN: Would you read clause 125, Mr. Fulton?

The WITNESS: Clause 125 is the clause which corresponds with the old section 138.

The VICE-CHAIRMAN: I do not understand the representations of the Toronto Board of Trade as they are there.

Mr. HUNTER: Before we leave clause 121, what is the meaning of that word "dealings" in "his dealing or property"? It seems a peculiar word to use, what does the word "dealings" mean? I notice in clause 125 that they use the words "business or property".

The WITNESS: "Dealings" is, I suppose, roughly the same meaning as business.

Mr. HUNTER: "Dealings" seems nebulous and vague, to me. I do not want to be critical but I am dashed if I know what "dealings" means. It is a word I have never seen used in other statutes.

Mr. FULFORD: It is a colloquial word rather than a legal word.

The WITNESS: It is the expression now used in the present act. I do not think it is an uncommon word to apply in that context. I could not point out to you a place where it is used in any statute but my impression is that that word is not uncommonly used in that context.

The VICE-CHAIRMAN: I wonder what it is in the French text.

Mr. HUNTER: I do not know whether it has ever been judicially defined.

The VICE-CHAIRMAN: In the French text the corresponding word is "operations."

The WITNESS: How would you render that literally in English?

The VICE-CHAIRMAN: "Dealings". The exact translation of "operations" is "dealings".

Mr. BELZILE: All financial operations, business dealings.

The VICE-CHAIRMAN: It reads very well. It covers everything.

Mr. HUNTER: I am not trying to quarrel with it, I am just a little doubtful.

Mr. PRUDHAM: In subclause (2), what is meant by "interested persons", does that mean a curious person interested out of curiosity, or what does that mean?

The VICE-CHAIRMAN: It might be the creditor of a creditor.

Mr. PRUDHAM: Or other interested persons.

The WITNESS: The court would have to be satisfied as to his interest; it would have to be a substantial interest in the estate. The word there indicates an abundance of caution.

Mr. CANNON: Now, about that word "dealings", I wonder if the word "business" would not be a better word. The word "business" has been in use in the Bankruptcy Act for a good many years and we know exactly what it means but the word "dealings" might give rise to a different interpretation.

The WITNESS: It is not a new word. It is a word that has been used in that context in the present Act.

Mr. CANNON: You mean the old Act?

The WITNESS: Yes.

Mr. CANNON: It has been?

The WITNESS: Yes.

Mr. CANNON: Oh, when you said in the present Act I thought you were referring to this Bill.

The WITNESS: Not the present bill, the Act as it now stands.

Mr. HUNTER: I do not recall ever having had that point come up.

The VICE-CHAIRMAN: "Business" is a more passive word than "dealings".

Mr. FULFORD: It indicates operations.

The VICE-CHAIRMAN: Yes, and operation in business is "dealings".

Mr. FULFORD: Yes, it is operations. Let us leave it at that.

The VICE-CHAIRMAN: Shall clause 121 as amended carry?

Carried.

Clause 122—what was deleted?

The WITNESS: The words deleted are indicated on the right-hand page.

The VICE-CHAIRMAN: Oh yes, I see.

Mr. FLEMING: And subclause 4 there is deleted. Can you tell me what it was in the old bill?

The WITNESS: We haven't got a copy of the original bill, the 1946 Bill, here. I can look that up.

The VICE-CHAIRMAN: Is it your desire that we should hold this over?

Mr. FLEMING: No.

Carried.

Clause 123.

Carried.

Clause 124.

Carried.

Mr. FLEMING: I would just like to understand what the suggestion of the Toronto Board of Trade was and the reason why it was not adopted.

The WITNESS: Well, it was felt that the present clause 124 substantially covers the provisions they wished to have restored, and as far as 135 (1) and (2) are concerned the penalties are now provided for in clause 156.

The VICE-CHAIRMAN: And that is in subclause (c) of 156 as far as the bankrupt is concerned?

The WITNESS: Yes.

Mr. FLEMING: That would not be for his refusal to answer.

The VICE-CHAIRMAN: Where he refuses to answer or neglects to answer fully and truthfully and so on.

Mr. FLEMING: That is refusal to answer on examination; what about refusal to attend?

Mr. BELZILE: That is covered in clause 124.

The VICE-CHAIRMAN: It might apply, Mr. Fleming, but possibly it does not cover his non-appearance.

Mr. FLEMING: I would think that 156 (c) covers non-appearance. That has nothing to do with non-attendance. Obviously the warrant provision was in 135(4) to bring a debtor up for examination; and there is also provision that he could be committed to the common jail for a period not exceeding twelve months. Might I ask Mr. MacDonald if he knows of any case where that provision was resorted to and there was a committal?

The WITNESS: Offhand, I cannot think of any such case.

Mr. FLEMING: I was just wondering if there was any good reason for eliminating that. I would think the warrant provision itself would be much more effective if you had a sting like this in the Act. I think you justify that twelve months incarceration.

The WITNESS: The note on the right-hand side of the page, which of course you have read, indicates that clause 135 at present is illogical; as, for instance, for a bankrupt being examined refusing to answer, the penalty clause states that he may be apprehended and brought up for examination.

The VICE-CHAIRMAN: What is it that causes you concern?

Mr. FLEMING: I am concerned about the elimination of this provision as to the penalty—it is true we have provision in there for bringing him up on warrant where otherwise he has refused to attend, but it seems to me it is a good thing to have that provision in regard to possible committal for a period not exceeding twelve months in the Act, because a man is much more unlikely to refuse to attend if he knows there is a penalty like that staring him in the face.

Mr. HUNTER: Isn't there one already in clause 136 (a)?

Mr. BELZILE: Don't you think, Mr. Fleming, that a man who is a bankrupt being brought up before a judge on a warrant and refusing to answer any questions would be in contempt of court and then would fall under the ordinary provisions of the criminal law?

Mr. FLEMING: I am not at all sure that he would be in contempt of court unless this statute requires him. If you get him up there and he still refuses to answer questions then surely you can apply clause 156(4).

Mr. BELZILE: Yes.

Mr. FLEMING: On this man refusing to attend you can issue a warrant and cause him to be apprehended and brought up for examination, but it occurs to me that you are going to have much better results if you have a section like this in the Act. That is one of the reasons for keeping this provision of committal to the common jail for a period of twelve months in.

Mr. CANNON: I think you have that provision by a combination of clauses 156(a) and 117(b)—if he does not attend he is subject to the penalty by clause 156.

The WITNESS: And if you will look at (j) of the same clause, it carries it further.

The VICE-CHAIRMAN: Of clause 117; yes.

Mr. FULTON: But that only covers the bankrupt himself, not other persons; clause 124 covers the bankrupt or any other persons failing to attend.

The VICE-CHAIRMAN: Yes, it covers other than the bankrupt. As far as the bankrupt is concerned now, if the authority is satisfied, then there is provision for a punishment on summary conviction if he fails to appear, not only if he fails to answer.

Mr. FULTON: It seems to me that the bankrupt is adequately covered by clauses 117 and 153, the one dealing with the penalties for other persons. He can be compelled to attend by warrant; and committal to jail for a year is a fairly hard penalty for a man who fails by four days to answer his summons.

The VICE-CHAIRMAN: That is how it is. You would leave it as it is?

Mr. FULTON: Yes.

The VICE-CHAIRMAN: What do you say, Mr. Fleming? You have your opposition on your right.

Mr. FLEMING: I have said my say.

Carried.

Clause 125:

Mr. FULTON: This is a clause where I am wondering about the change between this and section 138. Does this now mean that a man can take the protection of section 5 of the Evidence Act?

The WITNESS: No, I don't believe it does, Mr. Fulton.

Mr. FULTON: Is there in fact any protection under clause 125? Is he less liable now to be compelled to answer the questions than he was before?

The WITNESS: Clause 125 is less specific and more general in its terms, but, if it is read literally, it seems to me that the position is about the same. The section of the Canada Evidence Act to which you refer provides, as I remember it, that where anybody but for this act,—the Canada Evidence Act—, or a provincial act, would be permitted to refuse to answer a question on the ground that it may tend to incriminate him, that person is, nevertheless, compelled to answer the question but his answer cannot be used in certain prosecutions against him. Now this is not the sort of question that the Canada Evidence Act says he must answer; this is a question he is compelled to answer by what is neither the Canada Evidence Act nor a provincial statute.

Mr. CANNON: I suppose the sanction for that is that if he refuses to answer he would be in contempt of court.

The VICE-CHAIRMAN: It is in 156.

Mr. CANNON: There must be contempt of court—where questions are put to him in court. I am speaking now of 125?

The WITNESS: Yes.

Mr. CANNON: If the questions were put out of court it would not be contempt of court. If the individual is not in contempt of court there is no sanction.

The WITNESS: 156 (c).

Mr. FULTON: That relates only to the bankrupt.

Mr. CANNON: If we amended 156 (a), when we get to it, and add to clauses 117 and 125 the provision that if he fails to do the things required by him—

Mr. BELZILE: 125 refers to any person?

The VICE-CHAIRMAN: You would have to change it.

The WITNESS: Clause 156 will catch the bankrupt in so far as he comes under clause 125.

By Mr. Fulton:

Q. Clause 125 covers all others generally, does it not?—A. That is true.

Q. The only sanction is the general provision with regard to contempt of court?—A. Yes, except in the case of the bankrupt himself; he comes under 156 (c).

Q. There is, in fact, no substantial difference in the position of this person not a bankrupt from that contained in the old act.—A. That, I would say, is the case.

Q. I ask that in the light of the comment on page 31 of these notes where the Toronto Board of Trade had asked for an enlargement of clause 121 and to insert there a requirement that persons answer questions even though the answers might incriminate them or expose them to civil liability. It was not adopted, and your comment is that it was felt that it was an infringement of rights; but you have, in fact, put the provision in 125?—A. Yes, in that respect, I would say the comments in the compendium were not apt.

Q. So it was not the intention to protect this person not a bankrupt from having to answer questions?—A. Section 125 does not have the effect of protecting him.

The VICE-CHAIRMAN: Shall the clause carry?

Carried.

Clause 126?

By Mr. Quelch:

Q. May I ask a question here? Can a man who has absconded to the United States be extradited and can the trustee attain control over the assets he took with him to that country? The case I have in mind is where an American comes to this country, makes a small down payment on a plant, works it a short while and allows payments for wages and raw materials to fall in arrears. He then clears out of this country. What recourse would the trustee have, that is before a petition for bankruptcy has been filed?—A. As far as extradition is concerned, Mr. Fleming has a piece of paper on which I had written some words from the Extradition Act.

Mr. FLEMING: The first schedule simply refers to "offences against bankruptcy and insolvency law."

By Mr. Quelch:

Q. If he absconds before the petition is filed but the petition is filed shortly after he leaves—A. You are discussing the bankrupt?

Q. Yes, but at the time he leaves the petition has not been filed. As soon as he leaves the petition is filed.—A. It would not necessarily follow that it was not an offence against bankruptcy or insolvency law. I would want to have a look at the act in the face of the exact position which you have outlined.

Q. Would it make any difference as to whether the petition had been filed prior to the time he absconded?—A. I should think that would definitely settle the question because then his obligations under the Bankruptcy Act would have set in.

Q. I understand there have been some cases of that kind?—A. The chairman points to clause 156(8) which makes it an offence.

“Any bankrupt who—after or within six months next preceding his bankruptcy fraudulently conceals or removes any property of a value of fifty dollars or more or any debt due to or from him—”

Now it seems to me that is your case. The man has fraudulently removed property and assuming that it is within six months next preceding bankruptcy then it is a bankruptcy offence. I am not sure but what even without such assistance we could fix him with some bankruptcy offence that would cover the situation and make him extraditable. As far as recovering that property is concerned it is a practical question and the difficulties are perhaps as much practical as legal. Once the trustee had established his title to the property then he could pursue it in the United States in the same way that any person in Canada who is entitled to property in the United States can pursue that property. Just how effective the measures that he took would be in getting the property back is something I would not express an opinion upon. We have not got enough facts here to pass upon that.

The VICE-CHAIRMAN: A judgment taken in one of the provinces of Canada cannot be executed in the United States. You must start all over again.

Mr. HUNTER: Can you not sue on the judgment in the United States?

The VICE-CHAIRMAN: Yes, but you have to prove the claim just the same as in any Canadian court.

Mr. QUELCH: Have there been any cases where the trustees have been able to get control of property in the United States?

The WITNESS: I cannot tell you.

Mr. FLEMING: There are states where reciprocal laws exist with regard to outside judgment.

The WITNESS: My impression is, that although the situation varies from place to place, generally speaking if a defence is not put in you can get the judgment on the foreign judgment. If the defendant is so minded however he can come in and raise any defence that he could have raised in the original action.

Mr. QUELCH: After an individual has been brought back to this country, if the trustee can prove certain property has been removed—

The WITNESS: Then you can pursue that property, but the practical difficulties of actually getting it may be very considerable.

The VICE-CHAIRMAN: Is clause 126 carried?

Carried.

Clause 127. As this is a new point perhaps Mr. MacDonald could, in a few words, explain the procedure.

The WITNESS: The first subclause contains one of the important new elements. “The making of a receiving order against, or an assignment by, any person except a corporation operates as an application for discharge, unless the bankrupt, by notice in writing, files in the court and serves upon the trustee a waiver of application before being served by the trustee with a notice of his intentions to apply to the court—”

It automatically starts discharge proceedings at the time of bankruptcy. The reason for that is explained in the note on the opposite page. One of the purposes of the change in the clause is to bring about a situation where more bankrupt persons will obtain their discharges than have done so in the past.

Mr. RICHARD (*Gloucester*): Is there not a mistake in subclause 5—the word “to” being left out before the words “the bankrupt”?

The WITNESS: I think that the repetition of the preposition is understood.
Mr. RICHARD (*Gloucester*): Oh, I see. The hearing may be opposed, is that the idea?

The WITNESS: Yes.

The VICE-CHAIRMAN: Do you know the reason for the Bar of the province of Quebec suggesting that the trustees' fees on application should be determined in advance? Has there been any undue charging by trustees on application for discharge?

The WITNESS: I will just see if I can lay my hands on their comments. Perhaps I may answer off the record.

(Answer given off record.)

By Mr. Richard (Gloucester):

Q. "Any person"; does that mean the bankrupt as well?

The VICE-CHAIRMAN: Where is this?

By Mr. Richard (Gloucester):

Q. (6) If the trustee does not appoint any other person, would that mean the bankrupt?—A. That is to meet the contingency...

By Mr. Cannon:

Q. The duties of the trustee are to help the bankrupt to get his discharge. You say: should it be the bankrupt himself? No, it could not be the bankrupt himself who would be left to fill the duties of the trustee. It would be incompatible.—A. Reverting to that question about representations made by the Quebec Bar, the only reference I have here is to the previous proceedings held before the Senate committee. And the only comment there is that the court should determine in advance the trustees' fees in connection with the request for discharge. And that is not amplified.

The VICE-CHAIRMAN: No, it is not. I read the report of what happened before the Senate committee, and it is not amplified. But surely there have been some abuses. Would it be possible, when the court renders a judgment upon the application for discharge, that the fee be fixed by the court in the same judgment. It does not have to be in advance, as mentioned here in the compendium.

By Mr. Hunter:

Q. Under subclause (4) it says that the trustee may require funds to be deposited. I cannot imagine a trustee if he has not any funds on hand not asking for them.

By the Vice-Chairman:

Q. Of course he will.—A. It is the intention that the fees will be fixed by tariff under the Act.

Q. You have special rules. Oh, that is different. I am satisfied. It is not presently in force.—A. No.

By Mr. Fulton:

Q. I am surprised at these two sentences in the explanatory note to clause 127:

From the beginning of bankruptcy legislation there has been a gradual evolution in the attitude of the public towards bankrupts until at the present time creditors are held more or less equally responsible

with bankrupts for their debts. If the Bankruptcy Act is to serve its intended purpose to give bankrupts an opportunity to rehabilitate themselves as useful citizens, more responsibility must be accepted to create that opportunity for the bankrupt by providing an automatic procedure for his discharge.

As to the first sentence I read, I would almost be prepared to say that I take exception to it, or that I differ quite strongly from it.—A. The trend which it indicates, I think, is quite true. It may be that the concluding words carry the thought further than it should have been carried. If they had simply read: “from the beginning of bankruptcy legislation there has been a gradual evolution in the attitude of the public towards bankrupts”, it might have been better.

Mr. CANNON: It is an extraordinary statement.

By Mr. Fulton:

Q. The explanatory notes do not affect the operation of the Act. But I wonder, in view of the explanatory notes and the purpose which the Act is intended to accomplish, whether it is not being made a little too easy for a bankrupt to obtain his discharge. I know in the past there has been some feeling that the Bankruptcy Act in general makes it rather easy for him.—A. The provisions to which this note refers do actually reflect the suggestion in the note. I would like to state that this explanatory note goes back to Bill A5 which was introduced in 1946. The idea contained in the last words is the idea of which you are afraid—if I may put it that way. I do not think it is reflected in the actual provisions of the Act.

By Mr. Macdonnell:

Q. There is no suggestion of a subscription.—A. No, and it does not reflect itself in the administration of the office. I can assure you of that. The purpose of clause 127 and those provisions is rather to ensure that the bankrupt who is entitled to take his discharge will take his discharge, rather than to soften the conditions under which he can get his discharge.

By Mr. Fulton:

Q. And what about this one provision which is suggested by the Toronto Board of Trade, the Creditmen's Trust Association Limited, the Canadian Bar Association, the Quebec division of the Canadian Creditmen's Trust Association Limited, and the Law Society of Upper Canada, that the estate should not bear the costs of the application? It does seem to me that if the man can make an assignment and go through bankruptcy and then have the costs of his discharge paid at the expense of the creditors, perhaps it is making it a little too easy for him to get his discharge.

Mr. HUNTER: Again, subclause (4) would indicate that they expect to get, in many cases, funds or a guarantee of them from the debtor.

By Mr. Macdonnell:

Q. After all, if a man is not going to show some interest in himself, or take some interest in himself, is there any purpose in insisting that he be no longer a bankrupt? The rather odd words to which Mr. Fulton referred suggest to me that there is a great deal to be said for putting a man back on the street, provided he has got enough sense to know that he wants to be back on the street. If he does not know, then why ask other people to pay for it?

By Mr. Fleming:

Q. I am not very convinced that we should have this automatic feature put in for the benefit of the bankrupt in relation to his application for discharge.

We have been told in the compendium of the formidable list of bodies which made representations against it. May I ask what other bodies recommended in favour of this automatic procedure? We are told that there is an American precedent for it, but what Canadian groups have asked for it?—A. I cannot point to any representations made by any bodies for that change. It is a provision that was developed in the department over a period of some time and it is patterned on the United States' provision.

Q. There is no counterpart to it in England, is there?—A. Not that I am aware of.

Q. I do not know whether you want to let this stand for further consideration at the present time, Mr. Chairman, but I would not be prepared as at present advised to support it.

By Mr. Fulton:

Q. Before this is allowed to stand, if that is the suggestion, I suppose it is correct to assume that because this onus is now placed upon the trustee, the only source of funds to pay for the application would be the estate of the bankrupt. It is not specifically provided, is it?—A. That is correct.

By Mr. Cannon:

Q. At the present time, under the present Act, Mr. MacDonald, is it the bankrupt who has to pay for his application for discharge?—A. Yes.

Q. Then why not let him pay for it? Why should the creditors pay for it? I approve of the principle of the thing; I approve of the making of the application; but at the same time I think a lot of people never apply for discharge because they do not know about it, they do not know about the procedure starting automatically. I think it is a good thing. The actual obtaining of the discharge is not made any easier. The rules would be about the same as they are now. But I wonder if it is wise to put the cost of it on the creditors.

By the Vice-Chairman:

Q. The suggestion of the Canadian Bar Association is that the bankrupt be required to pay in advance the cost of the application.—A. May I add a word by way of explanation, not by way of advocacy, but nevertheless on the other side of the ledger. There may be a certain amount of feeling that the trustee has lost all his assets in the course of ordinary commercial risk.

By Mr. Fleming:

Q. Don't you mean the bankrupt?—A. The debtor, I am sorry; the debtor has lost all of his assets in the course of ordinary commercial risks which would have served to benefit not only himself but other members of the community, and that there may be certain grounds for saying that he should be entitled to the cost of his discharge out of what was, up until this time, his own estate. I put that to you because I think it is the case for the debtor.

Q. We must remember that the debtor has not been idle in the meantime, presumably; and if he is deserving of being relieved from the burden of debt, surely it is not too much to expect of him that he will first of all show enough interest in his own future to apply for his discharge; and in the second place, that he be prepared to pay the cost. The cost would not be unduly heavy, unless there were adjournments. These orders are made to take effect at a postponed date.

THE VICE-CHAIRMAN: Would it be satisfactory to the committee if I asked Mr. MacDonald and Mr. Larose to prepare—without saying that we are going to adopt it—an amendment, or a redraft of the clause in order that the suggestion of the Canadian Bar Association that the bankrupt be required to pay in advance the cost of his application be included in this clause? Then we will let it stand?

Mr. FULTON: Not necessarily pay in advance, but that the bankrupt be responsible for the cost.

The VICE-CHAIRMAN: As you like, yes.

Mr. MACDONNELL: In England, where they provide you with dentures and wigs, they have not done this yet.

The VICE-CHAIRMAN: We will let the clause stand.

Mr. QUELCH: Could we refer again to clause 126?

Clause 126, subclause (1) reads:

The court may by warrant cause a bankrupt to be arrested, and any books, papers and property in his possession to be seized, and him and them to be safely kept as directed until such time as the court may order,

"And him kept". What does that mean exactly?

The VICE-CHAIRMAN: As far as he is concerned he will be in jail and as far as the papers will be concerned they will be in custody.

Mr. QUELCH: Well, how long can they keep him in jail,—as long as the court directs,—until he is granted a discharge?

The VICE-CHAIRMAN: After forty-eight hours he will have to appear before a judge, I believe. Otherwise they take the risk of a habeas corpus writ.

The WITNESS: That would have to be covered in the direction of the court.

Mr. QUELCH: That is all.

Mr. FLEMING: Mr. Chairman, while we are on clause 127, I wonder if we might ask Mr. MacDonald to consider what amendment would be required in this or any other related clauses if we decided not to favour automatic application procedure.

The VICE-CHAIRMAN: We would have to go back to the old Act.

The WITNESS: That would not be extensive. I could not say what sections would be affected but I will run over them and see.

Mr. ASHBOURNE: Mr. Chairman, I would like to know the cost of the discharge, as well. The average cost, say.

The WITNESS: We would hope by tariffs to keep it down to,—this is necessarily a very rough estimate—to let me say \$75 in the average case.

Mr. BELZILE: Fees and disbursements, or fees?

The WITNESS: Fees and disbursements.

The VICE-CHAIRMAN: That is very low.

Mr. BELZILE: Fair enough.

Mr. FLEMING: That might be a starting point. You contemplate a very simple case, probably an unopposed application?

The WITNESS: I said the average case or the ordinary case.

The VICE-CHAIRMAN: I thought it was the average fee.

Mr. FLEMING: I was wondering if you might add unopposed application.

Mr. HUNTER: There would be a lot more opposed applications, I think, when this thing is brought up so early. And I should think the discharge as given would be given upon certain terms and conditions as to times and so on.

The VICE-CHAIRMAN: We will have to let clause 128 stand also.

Mr. FULTON: Clause 128 stand? Why?

The VICE-CHAIRMAN: Because it is the same procedure; we will have to let clause 128 stand.

The WITNESS: No, I think clause 128 could be dealt with.

The VICE-CHAIRMAN: There is no material change of the old Act?

Mr. MACDONNELL: There is a lot of odd wording in clause 128 about the middle of subclause (1):

The trustee shall prepare a report in the prescribed form as to the affairs of the bankrupt, the causes of his bankruptcy, the manner in which the bankrupt has performed the duties imposed on him under this Act or obeyed the orders of the court, and as to his conduct both before and after the bankruptcy, and whether he has been convicted of any offence under this Act, together with any other fact, matter or circumstance that would justify the court in refusing an unconditional order of discharge—

Mr. CANNON: In case there should be facts that would justify the court in refusing the discharge.

Mr. FLEMING: To be sure of getting those facts before the court.

Mr. HUNTER: But on the wording of this it looks as if it has to be shown that he has been convicted of an offence to refuse it, does it not?

The VICE-CHAIRMAN: Clause 128 carried?

Mr. HUNTER: Just a minute now, does that mean that before he can refuse it it has to be shown that he has been convicted of an offence?

Mr. CANNON: No, I do not think so:

whether he has been convicted of any offence under this Act, together with any other fact, matter or circumstance that would justify the court in refusing an unconditional order of discharge—

Mr. HUNTER: That makes it even stronger, does it not?

Mr. CANNON:—

and whether he has been convicted of any offence under this Act, together with any other fact, matter or circumstance that would justify the court in refusing an unconditional order of discharge—

It is just the English, the word “whether” in the construction of the paragraph. You were saying that unless you show he has been convicted of an offence and these other matters after—

The WITNESS: Oh, I see what you mean. I could not quite follow that before. “Whether” there, simply means whether he has not been convicted of an offence under the Act and it is just one of the things you have to indicate and then you go over to clause 129:

the court may either grant or refuse an absolute order of discharge—

It does not say that if you show an offence that the application must be refused.

Mr. CANNON: I still think that you have a point there, Mr. Hunter; that the drafting is not good. If I may point it out here: the trustee shall prepare a report in prescribed form as to the affairs of the bankrupt, the causes of his bankruptcy, the manner in which the bankrupt has performed the duties imposed and—“As to” should be understood there. Now I think “whether” is not good. When you come to the word “whether”, I think you ought to alter that to fit in with the words “as to”.

Mr. MACDONNELL: “He has been convicted”—that might mean there that he would have to have been convicted of an offence, and also of any other facts which would be linked to any other fact, matter, or circumstances. I do not think it is clear. Instead of having “together” you should repeat “as to” and have it read “as to any other fact, matter or circumstance”.

Mr. HUNTER: That would at least make it a little more Christian.

Mr. CANNON: “As to” would be better, I think.

The VICE-CHAIRMAN: I understand you moved the amendment, Mr. Hunter, seconded by Mr. Cannon, that the words "together with" in line 7 of clause 128, subclause (1), be replaced by the words "and as to".

Mr. MACDONNELL: Where does that come in?

The VICE-CHAIRMAN: In line 6.

Mr. CANNON: And before the word "whether"; and "as to whether" in line 6.

The VICE-CHAIRMAN: Pardon me, what is your amendment in line 6, Mr. Cannon?

Mr. CANNON: Mr. Macdonnell suggests that we also add an "as to" in line 6. I think we would clarify that section if we did.

Mr. HUNTER: I think there should be some kind of punctuation after the word "circumstances" to show you have a series; at least a comma after the word "circumstances".

The VICE-CHAIRMAN: Oh, I see where you mean, in line 8.

Mr. HUNTER: Just to make it English, I think.

The VICE-CHAIRMAN: Or even French.

Mr. HUNTER: I do not think that is correct: "the manner in which the bankrupt has performed the duties imposed on him under this Act or obeyed the orders of the court, and as to his conduct both before and after the bankruptcy, and whether he has been convicted of any offence under this Act, together with any other fact, matter or circumstance"—that is where I think the comma should come in.

Mr. FLEMING: Those three things stand on their own ground.

Mr. HUNTER: Yes.

Mr. FLEMING: That is a residual clause. We have the words, "any other fact, matter or circumstance". To what does that relate?

The WITNESS: It relates back to all the previous factors. They have to be included in any report, not only in the report of an offence under the Act.

Mr. MACDONNELL: Could we have the amendment read, please?

The VICE-CHAIRMAN: Then it would read:

The trustee shall prepare a report in the prescribed form as to the affairs of the bankrupt, the causes of his bankruptcy, the manner in which the bankrupt has performed the duties imposed on him under this Act or obeyed the orders of the court, *as to* his conduct both before and after the bankruptcy, *as to* whether he has been convicted of any offence under this Act, *and as to* any other fact, matter or circumstance that would justify the court in refusing an unconditional order of discharge, etc.

Mr. CANNON: Wait just a moment. In line 5 we should take out the words "and as to". If you leave them in you are just repeating.

The VICE-CHAIRMAN: Yes.

Mr. CANNON: And it is really covered by the "and as to" before it.

The VICE-CHAIRMAN: Oh, I see what you mean; take one out and put one in.

Mr. CANNON: I think it would be better to do that.

Mr. HUNTER: Will you take the others out, or leave that one in?

Mr. CANNON: The "and as to".

The VICE-CHAIRMAN: What did we do? Did we delete the words "and as to" line 5?

Some Hon. MEMBERS: No.

The VICE-CHAIRMAN: We don't? All right. I do not believe the French version should be changed.

Mr. BELZILE: No.

The VICE-CHAIRMAN: The French text cannot be better than it is now. It carries the same meaning and should not be touched.

Mr. HUNTER: We will leave it to Mr. Lesage, he is the authority on the French version of the Bill.

The VICE-CHAIRMAN: No, I am not the only one, there is also Mr. Belzile—perhaps others.

The WITNESS: Could we just have those changes?

The VICE-CHAIRMAN: Oh yes; the first one is in line 6—"and as to whether".

The WITNESS: "And as to whether", not taking out the word whether?

The VICE-CHAIRMAN: No; and in line 7—

The WITNESS: Taking out "together with"—

The VICE-CHAIRMAN: And putting in, "and as to".

The WITNESS: Putting in "and as to".

The VICE-CHAIRMAN: Yes. Now, the French version should not be changed.

Mr. FULTON: Is that carried?

The VICE-CHAIRMAN: That is up to you members.

Carried.

Mr. FULTON: I would like to ask a question with regard to subclause 2 before the clause as amended carries.

The VICE-CHAIRMAN: Yes.

Mr. FULTON: Does that contemplate two different types of application, when an application is pending the trustee shall file the report in the court not less than three days—and so on; and then later on, "and in all other cases the trustee, before proceeding to his discharge, shall file the report in the court and forward a copy to the superintendent". Does the first application refer to the application of the discharged bankrupt and the second one to the discharged trustee?

Mr. BELZILE: The beginning of the section says, "when an application is pending".

Mr. FULTON: Yes, and then in any other case; what are the other cases when an application is not pending?

The VICE-CHAIRMAN: Suppose a trustee ceases to act before he has made a distribution. I do not know of any other case that could be provided for.

Mr. CANNON: Well, the application is pending by clause 127 as passed; the application would be automatically pending unless the bankrupt waives—all the other cases are where the bankrupt waives.

Mr. HUNTER: That is where the trustee retires.

The WITNESS: The situation, Mr. Chairman, is this: where an application is made for discharge before the trustee takes action for his own discharge then he files a report in the court and in less than three days' time forwards a copy to the superintendent; but if no such application is made for discharge of the debtor, then before he takes his own discharge, he files a report in court anyway,

with a copy to the superintendent so that it will be there to await consideration when the debtor makes his own application.

Mr. CANNON: Would it not be better after the debtor gets his own discharge? Wouldn't that cure it?

Mr. FULTON: Why have the second part in there at all? Why not leave it "applications pending", which would cover both the application for the discharge of the bankrupt and the trustee; and then cause him to file his notice within the named number of days set for the hearing of the application.

The VICE-CHAIRMAN: Suppose the trustee retires—

Mr. FULTON: Then he has an application for his own discharge.

Mr. CANNON: No, Mr. Fulton, this whole section applies to discharge of the bankrupt only.

Mr. FULTON: It does not say so.

Mr. CANNON: Yes, at the beginning of the section.

The VICE-CHAIRMAN: Clause 129, is there anything on 129?

Mr. HUNTER: I don't know—are we going to go on forever today?

The VICE-CHAIRMAN: There are a few clauses coming up on which there have been no representations and no substantial change is proposed.

Mr. MACDONNELL: Is it a matter of final and settled policy that 50 cents on the dollar shall be the figure?

Mr. CANNON: It is the same as it was in the old act.

Mr. MACDONNELL: I know, but has there been any question raised over it?

The VICE-CHAIRMAN: No.

Mr. CANNON: What has happened to clause 128?

The VICE-CHAIRMAN: Clause 128 as amended is carried is it not?

Carried.

Clause 129?

Carried.

Clause 131?

Carried.

Clause 132?

Carried.

Clause 133?

Carried.

Mr. MACDONNELL: May I go back to 130 (a) and ask Mr. MacDonald to explain to us the real significance of the last five lines—"unless he satisfies the court that the fact that the assets are not of a value equal to 50 cents in the dollar on the amount of his unsecured liabilities—" etc.

The VICE-CHAIRMAN: It is a matter for the courts to decide, Mr. Macdonnell, but there is a whole volume of jurisprudence on the subject.

The WITNESS: I think it can be exemplified without getting into uncertain ground. I suppose the outstanding case would be where a debtor came in and said that when he went into bankruptcy there was almost 90 per cent but the trustee has mishandled the estate.

By Mr. Macdonnell:

Q. That is what I want to know. In other words, these last lines really just refer to inefficient realization of the bankrupt's assets?—A. I would not say

that they were restricted to that, Mr. Macdonnell. I gave it as an example but I would not say that they were restricted to that.

Q. On the face of it this says that a man shall not be discharged unless he pays 50 cents on the dollar.

The VICE-CHAIRMAN: He can always argue that the fact that the sale of his assets was forced is a reason why the trustee cannot get 50 cents on the dollar. That is usually one of the reasons put forward.

Mr. CANNON: I can think of a case where a fellow might have \$50,000 of assets and only \$5,000 of debts but, if he had a fire and the loss was not covered by insurance he would not be able to pay a cent and he would say that was due to circumstances over which he had no control.

Mr. MACDONNELL: Do we approve of the principle that a good man shall not be discharged unless he pays 50 cents on the dollar?

The VICE-CHAIRMAN: The court has complete jurisdiction.

Mr. MACDONNELL: Yes and no.

The VICE-CHAIRMAN: It is very seldom that you hear of a case where there is 50 cents on the dollar paid.

Mr. BELZILE: It is the general rule but the court can make exceptions.

Mr. MACDONNELL: If he has incurred debts foolishly can he just say that he has done so?

The WITNESS: It does not necessarily result in a refusal of the discharge. If you will look at clause 129 (2), what the court may do on proof of any of these facts is first to refuse the discharge, second to suspend the discharge, or third to grant the discharge but require the bankrupt to perform such other acts as the court directs.

The VICE-CHAIRMAN: Shall clause 134 carry?

Mr. BELZILE: I would like to find out how you read clause 134 in the light of clause 96 and clause 60 (3)? Clause 96 is quite drastic. It says that the wife or the husband as the case may be of a bankrupt is not entitled to claim a dividend as a creditor in respect of any property left by the wife or by the husband for the purpose of the business.

Mr. HUNTER: This would appear to be a qualification?

Mr. FULTON: I do not see any conflict there?

Mr. BELZILE: Yes, it would qualify 93.

The WITNESS: While clauses 60 (3) and 134 relate in part to settlements they refer to different consequences of those settlements. 60 (3) says provisions voiding certain settlements will not apply to the classes mentioned, including settlements before and in consideration of marriage; but notwithstanding that it is not voided under clause 60, if you say that in the case of such a settlement a settlor was not at the time of making the settlement able to pay all his debts without aid of the property comprising the settlement, that will affect the question of his discharge. We say in effect we will not set this settlement aside, that would in the circumstances be unjust, but we will take into consideration, as affecting your discharge, the question of whether you should have made the settlement, whether you had sufficient property.

Mr. BELZILE: Supposing that in the marriage contract the wife has a special provision indicating that she will lend to her husband the sum of \$5,000 to enable him to start or carry on a business. They are married but separated as to property. The clause of their marriage contract specifies that they will be separate as to property and if the wife has loaned \$5,000 to start her husband in business—

The VICE-CHAIRMAN: She can claim under clause 96.

Mr. BELZILE: Is it not a terribly drastic proposition?

The VICE-CHAIRMAN: She took a risk, didn't she?

The WITNESS: They are so closely associated that you must look at them almost as a unit.

By Mr. Belzile:

Q. There is no unit at all according to the civil law; they are separate as to properties; the wife administers her own property and assets and the husband does the same with his.—A. At law, yes, but in practice, and I think the point was very well brought out by one of the members this morning—if the husband or wife could claim under circumstances like that there would be no way of controlling the situation or ascertaining whether it was a valid claim.

Q. It is easy to prove. The wife says I have my own property which is composed of \$50,000 which I inherited from my father.—A. No, but it does not turn that way.

Q. Suppose I as a wife loan my husband \$5,000 to start in business.—A. I do not think it turns on the question of whether or not they are separate as to property. It turns more on the relationship, the very close relationship between them as husband and wife.

Q. And then take another case. A man and wife being married have community of property, to be common property. Now, in our law, they are three persons, the husband, the wife, and the community.—A. May I suggest that I do not think that the reason for this clause 96 springs out of any matter such as community of property, or being separated as to property. It springs from the very practical problem of business relationships between spouses.

Q. Could not there be some way to make it possible that the wife or the husband could? Here you just throw it out, that is all. I think it is terribly drastic.

Mr. HUNTER: I do not see it. If my wife is sympathetic or foolish enough to lend me \$5,000, then if I lose it, she loses it, too.

Mr. ASHBOURNE: The point brought up this morning was with reference to services and wages. I am inclined to agree with Mr. Belzile.

Mr. BELZILE: It is money which is loaned or entrusted by the wife to the husband. Suppose a wife inherits money from her father. It is her property which, according to the law of the province of Quebec, belongs entirely to her as a wife. Then she loans that money to her husband, and she goes before a notary public and she makes a perfect contract, and the contract is valid according to the law of the province.

Mr. CANNON: Is it? That is the point. Is there not a change being made?

Mr. BELZILE: No, it is entirely valid according to the law of the province for a woman to loan money to her husband. So they make a note or contract or obligation.

Mr. FULTON: Your objection is not under clause 34.

Mr. BELZILE: No, it is under clause 96.

The VICE-CHAIRMAN: We have a system in the province of Quebec which is known as the Lacombe law.

Mr. BELZILE: Yes, and I have been administering it for years.

The VICE-CHAIRMAN: And you know what the number of abuses are.

Mr. BELZILE: No, I do not object to the part about wages, salary or compensation. But the drastic part is in respect of property loaned or entrusted by a wife. I object to that.

Mr. HUNTER: There is a different relationship there.

Mr. BELZILE: Take a husband. I know of a case where a man was declared to be bankrupt. His wife had loaned him money, perfectly good money which belonged to her. But due to the marital relationship, the wife would have found herself in a very difficult situation if she had refused to lend the money to her husband. That is the trouble.

The VICE-CHAIRMAN: Marriage is a common venture.

Mr. BELZILE: Suppose my wife is worth \$100,000. Then suppose I drive my car out on the street and I hit or run over a child. Thereupon someone sues me for \$10,000. I have not got a red cent. So I go to my wife and I say: "Lend me or let me have \$10,000 so that I may be cleared of the court action". So she lends the money to me and I am able to effect a settlement with the father of the child and everything is all right. But suppose six months later somebody comes along and files a petition in bankruptcy against me and I cannot answer it. So I am declared to be a bankrupt and I lose everything and my wife loses everything as well.

Mr. MACDONNELL: Mr. Chairman, can you see a quorum?

Mr. HUNTER: I move we adjourn.

The VICE-CHAIRMAN: Very well. We stand adjourned until tomorrow morning after the orders of the day.

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HOUSE OF COMMONS

1949

SECOND SESSION

CM XC 13
-P. 11
STANDING COMMITTEE

ON

BANKING AND COMMERCE

Bill No. 149 (Letter F of the Senate) An Act Respecting
Bankruptcy

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

THURSDAY, DECEMBER 1, 1949

WITNESS

T. D. MacDonald, Esq., K.C., Superintendent of Bankruptcy, Department
of Justice, Ottawa.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.P.R.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1949



MINUTES OF PROCEEDINGS

HOUSE OF COMMONS,
THURSDAY, 1st December, 1949.

The Standing Committee on Banking and Commerce met this day at 11.30 a.m. The Chairman, Mr. Hughes Cleaver, presided.

Members Present: Messrs. Belzile, Bennett, Cannon, Cleaver, Dumas, Fleming, Fulford, Fulton, Gour (*Russell*), Hellyer, Laing, Lesage (*Vice-Chairman*), Macnaughton, Prudham, Quelch, Stewart (*Winnipeg North*).—16.

In attendance: Messrs. T. D. MacDonald, Superintendent of Bankruptcy and J. S. Larose, office of Superintendent of Bankruptcy.

Consideration resumed of Bill No. 149, An Act respecting Bankruptcy.

The following clauses were carried, subject to reconsideration at the request of any member: 136 to 144, (both inclusive); 146 to 152 (both inclusive); 154, 155. The following clauses stand for re-drafting by the Superintendent of Bankruptcy: 135, 145 and 153.

Clause 145 (1), on motion of Mr. Lesage,

Resolved,—That this clause be amended by striking out 145 (1) and substituting therefor the following:

“Any order made by a court exercising jurisdiction in bankruptcy under this Act shall be enforced in the courts having jurisdiction in bankruptcy elsewhere in Canada in the same manner in all respects as if the order had been made by the court hereby required to enforce it.”

Clause, as amended, carried.

The Committee adjourned to meet again this day at 3.30 p.m.

AFTERNOON SESSION

The Committee resumed at 3.30 p.m. The Chairman, Mr. Hughes Cleaver, presided.

Members present: Messrs. Ashbourne, Belzile, Bennett, Cannon, Cleaver, Fleming, Fulford, Fulton, Gour (*Russell*), Hellyer, Hunter, Lesage (*Vice-Chairman*), Prudham, Quelch, Richard (*Ottawa East*), Stewart (*Winnipeg North*).—16.

In attendance: As at morning session.

Consideration resumed of Bill No. 149, An Act respecting Bankruptcy.

The following clauses were carried, subject to reconsideration at the request of any member: 157, 158 (as amended); 159—162; 164, 165, 166 (as amended); 167—174 (both inclusive); Schedule. The following clauses stand: 156(a), 163.

Clause 156(a), stands for re-drafting by the Superintendent of Bankruptcy.

Paragraphs (b) and (c) carried.

Paragraph (d), on motion of Mr. Fulton,

Resolved,—That after the word "or" there be inserted the words "knowingly makes".

Paragraph (e), on motion of Mr. Lesage,

Resolved,—That in the first line the word "six" be deleted and the word "twelve" be substituted therefor.

Paragraph (f), on motion of Mr. Lesage,

Resolved,—That in the first line the word "six" be deleted and the word "twelve" be substituted therefor.

Paragraph (g), on motion of Mr. Fleming,

Resolved,—That paragraph (g) be struck out.

Paragraphs (h) and (i) to be re-lettered (g) and (h).

New paragraph (h), on motion of Mr. Fleming,

Resolved,—That in the first line the word "six" be deleted and the word "twelve" be substituted therefor.

New paragraph (h), on motion of Fr. Fleming,

Resolved,—That in the first line the word "six" be deleted and the word "twelve" be substituted therefor.

On motion of Mr. Lesage,

Resolved,—That, in the 43rd line, after the word "years" there be added the words: "and the provisions of section 1035 of the Criminal Code shall not apply".

Clause 156, as amended, agreed to.

On Clause 158(1), on motion of Mr. Lesage,

Resolved,—That paragraphs (a) and (b) be deleted and the following substituted therefor:

"(a) being engaged in any trade or business, at any time during the two years immediately preceding his bankruptcy, he has not kept and preserved proper books of account, or"

Paragraph (c) will be re-lettered (b).

Clause, as amended, agreed to.

On Clause 166, on motion of Mr. Cannon,

Resolved,—That subclause (4) be amended by inserting after the word "Rules" the words: "shall have effect as if enacted by this Act and"

Clause as amended agreed to.

The Committee adjourned at 5.55 p.m., to meet again tomorrow, Friday, 2nd December, at 11.30 a.m.

T. L. McEvoy,
Clerk of the Committee.

EVIDENCE

House of Commons,
December 1, 1949.

The Standing Committee on Banking and Commerce met this day at 11:30 a.m. The Chairman, Mr. Hughes Cleaver, presided.

Mr. T. D. MacDonald, K.C., Superintendent of Bankruptcy, recalled:

The CHAIRMAN: Order, please. Clause 135. Any recommendations on this clause?

Carried.

Mr. FLEMING: No. I wonder if we could hear a little more about the representations from the Toronto Board of Trade and the Bar of Quebec, which were not adopted?

The WITNESS: What clause is that?

Mr. FLEMING: 135 (1).

The WITNESS: Suggested by the Toronto Board of Trade that 131 (1) (a) be deleted. This was adopted in part, the section covering taxes and interest having been abandoned but not the provision relating to a fine or penalty or a debt arising out of fraud or misrepresentation and so on, it being felt that these items should be retained.

Mr. FLEMING: Mr. Justice Urquhart wanted 37 (1) (d) restored. Is the debtor liable for the necessities of life?

The WITNESS: The suggestion by Mr. Justice Urquhart that 137 (1) (d) should be restored was not adopted; alimentary debts are not entertained under the United States Act, the Australian Act or the Scottish Act.

Mr. FLEMING: Are they under the English Act?

The WITNESS: The English Act situation is not covered here.

The CHAIRMAN: What type of living expenses had you in mind, Mr. Fleming, that you thought should not be excepted?

Mr. FLEMING: I did not have anything in mind, I just wanted to explore the reason back of this dropping of 137 (1) (d).

The CHAIRMAN: Yes.

Mr. FLEMING: Apparently Mr. Justice Urquhart, who has had a good deal to do with the interpretation of this Act, did not like the idea of dropping those provisions. I was wondering what were the causative reasons for it, apart from the American, Australian and Scottish precedents.

The WITNESS: It was just a question of preference for those provisions as compared with the present provisions, Mr. Fleming.

Mr. FLEMING: Well, it puts the butcher, the baker and the grocer in a better position.

The CHAIRMAN: That type of thing is not carried on in this type of case. So far as the baker, the milkman and so on are concerned, I rather anticipate that in most cases business of that type is now carried on on a cash basis.

Mr. LESAGE: Oh no, Mr. Chairman, I would hardly agree with that.

MR. CANNON: Should that not be covered by the other clause there, (e), "any debt or liability for obtaining property by false pretences or fraudulent misrepresentation; or".

MR. FLEMING: Apparently not.

MR. CANNON: Well then, who is responsible for feeding his family?

MR. LESAGE: Yes, or supposing his family is in boarding school, would the cost of that board be included under 135 (1) (c)?

THE WITNESS: The original intention of that was to cover such things as maintenance, such as are covered by a maintenance order in a provincial court, for instance, where the parties were living apart.

MR. LESAGE: What about (b) then?

THE WITNESS: There would be maintenance orders falling short of the technical description of alimony; you take an order granted in a provincial court under a provincial act, it is often not an order for alimony.

MR. FLEMING: That raises an interesting point as to what was the understanding back of 135 (1) (c). The interpretation Mr. MacDonald has just put on it now would mean that was a liability to the wife and family. Now I gather from Mr. MacDonald's interpretation there that that might mean a debtor's liability to a third party arising out of maintenance and support of the wife and children. I think we had better clear this point up. We may be letting ourselves in for some litigation, if we do not.

THE WITNESS: As a result of this discussion I would say there was room for improvement in the wording of (c) to bring it into line with the intention. It was the intention of (c) that it would refer to the sort of situation where the liability was something in the nature of a maintenance order.

MR. FLEMING: In other words, that it is a debt or liability to the wife?

THE WITNESS: Yes.

MR. FLEMING: And not to a third party.

THE WITNESS: No, not to a third party.

MR. LESAGE: For the wife?

THE WITNESS: Yes.

MR. BENNETT: Would not that be a maintenance agreement?

THE WITNESS: I think it might read: Any liability for maintenance or support of his wife and children under a maintenance order.

THE CHAIRMAN: Would it be wise then to make that suggested amendment wide enough to include both separation agreement and maintenance order and word it this way: Any debt or liability to a wife or child for maintenance, and so on?

THE WITNESS: Just in case it might go wider than that, Mr. Chairman, if you have no objection I would suggest simply: "Any liability for maintenance or support of his wife and children under a maintenance order." As far as a separation is concerned, I believe that it would be taken care of under the description of alimony.

MR. FLEMING: I don't know about that.

THE CHAIRMAN: Oh no, alimony is a court order, and very often folks separated enter into a separation agreement under which agreement the husband agrees to pay so much per week or per month for the support of his wife or child or children; now that, obviously, should not be wiped out by this.

THE WITNESS: Yes, that was the hope. I was thinking of a separation order; not of a separation agreement but of a separation order.

MR. FLEMING: If we let this stand, Mr. MacDonald can do some work on it. I suggest that if we are going to use the word "order" anywhere we would have

to use words explaining what is meant by the word "order", that what was meant by the word "order" was an order by some court of competent jurisdiction.

THE CHAIRMAN: I would think any liability to a wife or child or children for maintenance or support.

Clause 135 stands.

MR. LESAGE: There may be liability for someone else. It does not always apply to the wife or children, it may be for a mother or some other relative.

MR. BEIZILE: What is alimony? It must be paid to the wife.

MR. LESAGE: Yes, what is alimony? I don't know myself, I am asking; must alimony refer only to the wife?

SOME HON. MEMBERS: Yes.

SOME HON. MEMBERS: No.

MR. LESAGE: There you have it, some of you say yes and some of you say no; which is it?

MR. FLEMING: Alimony refers to the support of the wife, but then you have actions where for instance there is an order as part of a judgment dissolving a marriage in divorce proceedings in the courts of some of the provinces, directing a payment or payments in lieu of alimony. There cannot be an alimony payment since the bonds of marriage have been dissolved; therefore, the statutes in such cases call it a payment in lieu of alimony.

MR. LESAGE: Oh yes, I see. But alimony is necessarily to the wife?

MR. FLEMING: Yes.

MR. LESAGE: So Mr. MacDonald's suggestion would be all right.

MR. FLEMING: Yes, I think it is a good idea.

MR. LESAGE: Any debt or liability to the wife and children.

MR. FLEMING: Or children.

MR. LESAGE: Yes, wife or children for their maintenance and support.

MR. FLEMING: Or support.

THE CHAIRMAN: Yes, maintenance or support.

Clause 135 stands.

MR. CANNON: Before we go on, Mr. Chairman, is the committee of the opinion that the wife was well protected under the old act? It would look here as though she was not protected at all, because if we give that interpretation to 135 (1) (c) I would say she would be just like the ordinary creditors.

MR. FLEMING: Yes, there is some protection for them. There is some suggestion based on actual experience that a family should not be taken out of the Act.

MR. CANNON: It seems to me that these people should get some consideration. Very often when a man is in financial difficulties he needs the necessities of life more than at any other time. There would appear to be nothing in here which would help him out. I think they should be protected.

MR. LESAGE: We are agreed that subclause (d) of 147 of the old Act should be restored.

THE CHAIRMAN: Let us discuss that for a moment. Take for instance, a chap who is faced with very heavy doctors' bills, running up let us say to a couple of thousand dollars: are you reinstating him into civil life properly if you reinstate him and give him a discharge from bankruptcy with a heavy debt hanging over him that he cannot possibly pay?

MR. FLEMING: Has a surgeon's bill ever been regarded as a necessity of life?

The CHAIRMAN: Oh yes, there are authorities in that connection.

The WITNESS: I think a doctor's bill would be a necessary of life. There is a jurisprudence on the subject.

Mr. FLEMING: There are some classes of people, Mr. Chairman, that we have to recognize—just on humanitarian considerations, those being what they are—who are hardly in a position to refuse to give credit to a man who is not otherwise credit worthy. It would be a pretty shocking thing, for instance, if the corner grocer, the baker or the milkman refused to sell to a man who was not otherwise credit worthy and his family were going to suffer otherwise.

The WITNESS: Suppose that a plumber was wanted to come up and fix the plumbing, or the furnace man maybe was wanted to come up in the wintertime and fix the furnace; I wonder if those things are not almost in the same class as necessities of life.

Mr. LESAGE: They are services, they are not necessities.

The WITNESS: But they are essential services today.

The CHAIRMAN: With welfare provisions as we have them today no families is going to go hungry because the grocer won't extend credit; and if it is proposed to make amendments in this clause, I would certainly strongly urge that we would exclude medical accounts. I have had instances called to my attention of medical and surgical bills running up to two or three thousand dollars, and it would be very unfair to the debtor to start him off with a deficit of that sort.

Mr. CANNON: That would come under the heading of services, Mr. Chairman. If you are going to do that I would think you would need to make a distinction between goods and services. The Act contemplates certain things as being covered by the necessities of life. Services would not be among those things; services would include such things as doctors' bills, plumbers' bills and so on.

Mr. FLEMING: And legal fees?

Mr. LESAGE: Legal fees as well.

Mr. CANNON: Well, the chairman has just drawn our attention to the fact that if we exclude all necessities of life we might go too far. To answer that objection I am suggesting that we might divide necessities of life as between goods and services and grant the privilege to the goods and not to the services.

Mr. FLEMING: Mr. Chairman, we are not agreed as to (b) or (c), probably we could let this clause stand for further consideration.

The CHAIRMAN: Clause 135 stands.

Mr. FULTON: Just before we do that; I do not see why a specific provision exempting any liabilities arising out of alimony order should be created for this Act.

The WITNESS: Under the view that it would come under (c) I take it.

Mr. FULTON: And that would be covered by the word "liability", would it?

The WITNESS: Yes.

Mr. FLEMING: We have to be very careful in that.

The CHAIRMAN: This clause will be allowed to stand. I have no doubt that the ground will be covered thoroughly.

Mr. FLEMING: We want to know just where the liability extends under this subclause. I was wondering if the words "wife and children" are contentious. If we don't provide for it otherwise it might by interpretation be applied as applying only to the wife and lawful children.

The WITNESS: That is a point. I will go into that.

The CHAIRMAN: Clause 136?

Carried.

Clause 137?

Carried.

Clause 138?

Mr. FLEMING: What was the subclause (3) at this point which was deleted?

The CHAIRMAN: Have you got it?

The WITNESS: Yes, we have something on that: 138—(3): Subclause 7 reads as follows—"for the purpose of this section any debt disputed by the bankrupt shall be considered as paid in full if the bankrupt enters into a bond in such form and with such sureties as the court approves to pay the amount to be recovered in any proceeding for the recovery of or concerning the debt with costs, and any debt due to a creditor who cannot be found or who cannot be identified shall be considered as paid in full if paid into court." Is there any question on that?

Mr. FLEMING: I was just wondering whether Mr. MacDonald had any comment to make on the elimination of that subclause, whether anything is lost by the elimination?

The WITNESS: It is a ground of annulment in the present Act that it has been proved to the satisfaction of the court that the debts of the bankrupt were paid in full. That has been dropped from the Bill. The subclause in question appears to have been for the purpose of regulating the decision...

Mr. FLEMING: That is of the old Act?

The WITNESS: Subsection (4) of the old Act, the present Act was for the purpose of the adjustment of the position of certain debts for the purpose of an annulment. That is, if the debtor came and said: here I have paid all my debts in full; then, if there were debts that were disputed or if there were debts where the creditor could not be found, so that technically he might be answered, you have not paid the amount in full, subclause 3 of Bill L-11 (Section 151(4) of the Act) operated to determine whether in the view of the court those debts were to be taken as having been paid in full. Now, the reason for the omission of a right of annulment where all the debts were paid in full, is that in a situation of that kind—which is of course rare—the debtor should proceed by way of composition, and the composition would itself result in cancellation of his bankruptcy. That is, if he is in a position to pay his debts in full then he can make arrangement to that effect with his creditors and that will give him a right to the cancellation of his bankruptcy.

The CHAIRMAN: Carried.

Clause 139:

Mr. BENNETT: In the third line of this clause there are the words "delivered out"; I wonder if we could have an explanation as to what those words mean?

The WITNESS: Delivered out of the office.

Mr. LAING: Does it require use or issue?

The WITNESS: I think it is just for greater certainty.

The CHAIRMAN: Carried.

Clause 140?

Carried.

The CHAIRMAN: Clause 141.

By Mr. Fulton:

Q. What changes are there? Just let us see. Are they changes in the nomenclature of the courts, or are they changes in the courts themselves?—A. The former, Mr. Fulton.

By Mr. Fleming:

Q. I do not understand one point mentioned in the compendium in connection with clause 140 (1) (e). We are told by Mr. Justice Urquhart and the Law Society of Upper Canada that the court is wrongly named. I thought a change had been adopted because the court, in the original draft, was the Supreme Court of Ontario.—A. It has been adopted. The compendium which you have brings you up to the time when the new bill went into the Senate committee this Fall.

Q. I see. The compendium does not embrace the changes made in that Senate committee.

The CHAIRMAN: It is certainly correct now.

Mr. FLEMING: Yes, it is certainly correct now.

The CHAIRMAN: Clause 141, carried. Clause 142?

Mr. LESAGE: Would you please revert to clause 141?

The CHAIRMAN: Yes.

By Mr. Cannon:

Q. What are the changes there? The note says that the changes are self-explanatory.—A. The changes are underlined. It was previously section 157 (1). There is no change intended in substance.

By Mr. Fleming:

Q. You say there is no change in substance.—A. The reference is to the Yukon Territory, and the Northwest Territories, and the change in respect to the province of Quebec. A particular paragraph was put in with respect to the province of Quebec. It previously read:

157. The Chief Justice of each court upon which the powers and jurisdiction are conferred by this Act shall from time to time appoint and assign such registrars....

and so forth.

By Mr. Fulton:

Q. In the case of the Yukon Territories, would not that have formerly been the Chief Justice of the Supreme Court of British Columbia?—A. I cannot tell you offhand. The situation in both the territories is a somewhat complicated one as far as the courts are concerned for the purposes of appeal cases. Appeal cases from the territories go to courts of appeal, I think, all the way from Nova Scotia, perhaps, to British Columbia. But in the territories themselves, there are no courts now, as you know, of the nature of those in the provinces. My strong impression is that the territorial courts do not now function. You have a magistrate in the Northwest Territories who sits with a jury for the trial.

The CHAIRMAN: Are there any further questions?

Mr. FLEMING: In Clause 141, subclause (b), in view of the fact that the province of Quebec has been singled out for special provision, should we not have inserted in subclause (a), after the words "Chief Justice of the Court", the names of the other nine provinces?

The CHAIRMAN: No. I believe that Quebec has an associate Chief Justice.

Mr. FLEMING: I can understand the difference, but it is a matter of draftsmanship to make clear what we do mean. In (a) I think we should have the names of the nine provinces mentioned to which (a) applies.

Mr. LESAGE: (b), (c) and (d) are the exceptions.

Mr. MACNAUGHTON: I think it is quite clear in subclause (b).

Mr. FLEMING: It is perfectly clear as to subclause (b) but I should think in subclause (a) you should have some provision to indicate that it applies in the case of the nine provinces.

Mr. MACNAUGHTON: I think that would make it even more difficult to understand.

Mr. BELZILE: Clause 141 I think should be read in connection with clause 140.

The CHAIRMAN: Clause 141 subclause (a) undoubtedly gives the chief justice of the court in any province the power. Clause 141 subclause (b) gives an additional power in Quebec to the associate chief justice. Clause 141 subclause (c) gives the power to a commissioner, where there is no chief justice; and the same with respect to subclause (d).

Mr. FULTON: So that in the province of Quebec it is intended there shall be two persons?

The CHAIRMAN: Yes. In Ontario we have no associate chief justice. Does clause 142 carry?

Carried.

Does clause 143 carry?

Carried.

Does clause 144 carry?

Carried.

Mr. FLEMING: Just one second, Mr. Chairman. I am checking on this clause 144 subclause (8). The suggestion made by the Toronto Board of Trade and the Law Society of Upper Canada was that the subclause be amended to permit trial by jury, but it was rejected because it was felt essential that claims be settled or determined expeditiously. What has been the position hitherto with respect to the trial of issues? I do not recall any provision in the present Act for trial of issues by a jury.

The CHAIRMAN: No.

The WITNESS: I do not remember any case.

By Mr. Fleming:

Q. There is nothing in the present Act which provides for trial of issue by a jury.—A. No, there is nothing in the present Act which provides for trial by jury at all.

Q. I do not recall anything in the present Act which affords the opportunity, even inferentially. The references are all to the registrar or to the judge.

The CHAIRMAN: Have you ever run across any such case in your practice where a jury trial was even necessary?

Mr. FLEMING: No.

The CHAIRMAN: Shall the clause carry?

Carried.

Now, clause 145?

By Mr. Lesage:

Q. The first subclause is new. What is contemplated to be covered by that?—A. To provide for the event of reciprocal legislation in another British country.

Q. What would be the evidence required in a Canadian court?

Mr. FLEMING: What is a British country?

By Mr. Lesage:

Q. That question will be coming after but I want to get the principle of it. I believe the principle is dangerous, Mr. MacDonald.—A. That would have to be established by rules under the Act, Mr. Lesage.

By Mr. Belzile:

Q. Suppose a judgment has been entered in the British Indies. What would be the evidence required in a Canadian court?

Mr. LESAGE: The evidence required to execute the judgment here in Canada?

Mr. BELZILE: Yes.

The WITNESS: That would have to be covered by the rules.

Mr. STEWART: Why not United States courts as well? Why limit it in this way?

Mr. LESAGE: Yes. What is a British country?

Mr. CANNON: Is India a British country?

Mr. FLEMING: Or Pakistan or Ceylon? They would no doubt be regarded as British countries.

Mr. CANNON: By whom?

Mr. LESAGE: You could say "commonwealth countries".

Mr. FULTON: Why?

Mr. LESAGE: You accept judgments of a court on the other side of the earth on their face, which we do not do at present in Canada.

Mr. BENNETT: We in Ontario under our motor vehicle law have reciprocal legislation between Ontario and Michigan, and Ontario and New York state, and so on. Most of the states have it.

The WITNESS: Might I add that most of the provinces have reciprocal legislation for maintenance orders.

Mr. BELZILE: That is what they call exemplification of a judgment. That is right. But in another country how can we exemplify a judgment?

By Mr. Fulton:

Q. In the past it was only between the provinces in Canada.—A. Yes, as set out in section 170 subsection (1) of the present Act.

By Mr. Fleming:

Q. Where did this clause originate?—A. This clause originated and is to be found in the original bill as prepared in 1946.

Q. What was back of it? Is there any precedent for it in the legislation of any other jurisdiction?

By the Chairman:

Q. What representations resulted in it being incorporated in the bill?—A. Going back that far, I cannot say there were any representations, Mr. Chairman. I would have to put it down as a matter which was developed within the department.

Mr. LESAGE: I would not be willing to accept a judgment from any commonwealth country without such judgment being exemplified. And if we put in that condition, we do not need the subclause. Exemplification means...

Mr. FULTON: Practically proving your case all over again.

Mr. BELZILE: No. You say that such a court in such a British country or in another province is a court which has jurisdiction in this particular province, and that the clerk who signs the judgment is authorized. You just

sign an affidavit. And then the judge renders judgment stating that the judgment will be executed in the province of Quebec.

Mr. LESAGE: There is no special procedure and there is no trial, unless it is contested.

Mr. BELZILE: The only thing is that you must prove that there is such a court and that the clerk is the real clerk of that court.

Mr. FLEMING: That is the same in any common law province. But that proof would not be complete because you would have to prove that there was reciprocal legislation, in the case of reciprocal legislation as between the different provinces of Canada and between Canada and some of the states of the union. In regard to judgments under the motor vehicle law, as Mr. Bennett mentioned, you have got from the government itself—the government of the provinces—the necessary proof that reciprocal legislation exists. But here, who is to determine whether there is or there is not reciprocal legislation? That might become an issue in court.

Mr. LESAGE: Yes, it may become an issue in the courts.

The CHAIRMAN: I think it should be observed that the bankruptcy rules in other countries might not parallel our rules at all.

Mr. FLEMING: There is no federal legislation at the present time which makes provision for reciprocal legislation to enforce bankruptcy orders.

The CHAIRMAN: That is right.

Mr. FLEMING: Therefore, if this clause be adopted, an issue will arise in respect of proceedings whether the country which has exemplified a judgement has, in fact, reciprocal legislation.

The CHAIRMAN: I think that fact should be required to be proven before anyone can take advantage of this clause.

By Mr. Fleming:

Q. I am inclined to view with doubt this kind of legislation because, in every other precedent which I know of for reciprocal recognition of judgements, there is some provision required in the law to establish that recognition by Act of the government, something which then becomes a matter of record. I think this is very vague. It is a rather novel departure.—A. I do not want to take issue with you, Mr. Fleming, but it runs in my mind that I have seen Acts relating to reciprocal measures such as this in which the issue was left to the courts to determine whether the other legislation was substantially of the same kind, and therefore was reciprocal.

Q. I do not want to labour the point, but the only relevant process I am aware of are precedents which depend for their validity on some agreement between the two states or jurisdictions, recognizing or extending reciprocity in the matter of recognition of judgements.

By Mr. Lesage:

Q. Suppose an exporter in British Guiana, Mr. MacDonald, owes me some money.—A. Yes.

Q. No. Suppose I owed some money to an exporter. I am an importer in Canada, and I owe some money to an exporter in British Guiana. He becomes bankrupt and there is an order of the Bankruptcy Court in British Guiana calling upon me to pay what I owe him. Do you mean to say that order will be enforceable against me in Canada after the judgment is rendered or that I will have to go to British Guiana and contest the judgment? Would he not have to sue me here in Canada? Would he not have to exemplify his judgment here? He would not have to do so under this clause, and I object strongly to it.

Mr. CANNON: Why make exceptions in bankruptcy matters? Why should not a judgment rendered in a bankruptcy matter be on the same footing as any other judgment rendered in any other country? Why should preference be given with respect to bankruptcy judgments? We have no more control over how they are rendered than we have control of how many other judgments are rendered. Why should we have more confidence in a bankruptcy judgment than any other judgment? I do not like the words "British countries". I think they are too indefinite.

By Mr. Fulton:

Q. I think we should observe that even though the clause or subclause use the particular words "reciprocal legislation", it doesn't mean that the principles of their bankruptcy Act must be the same as ours. It is confined here to reciprocal legislation providing for the enforcement by this court of bankruptcy orders made in a country which may have bankruptcy principles entirely different to ours, but which nevertheless may provide for enforcement of bankruptcy orders. We, by this clause, would be bound to recognize orders made under an entirely different system.—A. The rules to be made under the Act, I believe, are the answer to the question you put, Mr. Lesage.

By Mr. Lesage:

Q. I would not wait for the rules to guarantee to a Canadian that he has not to go to British Guiana in order to defend himself against an order of the court there.—A. No. It would be provided by rules, and there would have to be rules setting out the procedure, because the procedure is not in the clause. It would be provided by rules that you could defend in Canada.

Q. I would like to see it not only in the rules but in the law.

By Mr. Bennett:

Q. Mr. Lesage's question has not got anything to do with bankruptcy. Whether you owed money or not would be decided by our local courts. The bankruptcy court would only determine such things as priority and the amount of money to be paid.—A. It is possible that the situation which Mr. Lesage has put forward might arise under our Act.

Q. We have not got jurisdiction. It would be *ultra vires* with us. It is a matter of civil rights, a provincial matter.

The WITNESS: The bankruptcy court itself can sometimes make an order and the defendant would have to pay the money. That is one of the cases. So the situation which Mr. Lesage has put forward, I would say, could arise. That is, it would not be simply a judgment about procedural matters which would come in issue.

By Mr. Laing:

Q. Without any right on his part to contest it in a civil court in Canada? —A. No. That would have to be provided for.

Mr. LESAGE: That would have to be provided for in the rules. That is why I am against it. I want to see it in the law. I do not think we need the clause anyway, if it is going to be provided for in the rules.

Mr. CANNON: What is the advantage?

The CHAIRMAN: The superintendent has indicated to me that he is not going to press it.

By Mr. Belzile:

Q. I do not see any advantage in this particular clause. I think we are making too easy.—A. I think the chairman will cover it.

The CHAIRMAN: Mr. Lesage moves and Mr. Fleming seconds that all the words after the word "act" in the first line of clause 145 subclause (1) down to and including the word "Canada" in the sixth line be deleted.

Shall the amendment carry?

Mr. FULTON: Just a moment, please. How would it read?

The CHAIRMAN: It would read:

145 (1) An order made by a court under this Act may be enforced in in any court having jurisdiction in bankruptcy in Canada in the same manner in all respects as if the order had been made by that court in Canada.

Shall the amendment carry?

Carried.

By Mr. Fleming:

Q. Do you need the words "in Canada" at the end?—A. No. There is a slight inconsequential change which should be made in the last two lines. Clause 170 subclause (1) of the present Act reads:

170 (1) Any order made by a court exercising jurisdiction in bankruptcy under this Act shall be enforced in the courts having jurisdiction in bankruptcy elsewhere in Canada in the same manner in all respects as if the order had been made by the Court hereby required to enforce it.

The CHAIRMAN: The proper amendment is a motion to restore the wording of section 170 subsection (1) of the old Act.

By Mr. Fulton:

Q. Then I would like to see the words "shall be enforced" in the second last line changed to read: "Shall be enforceable".—A. "enforced" is a word which has stood the test in the present Act for a long time. I am not sure that I quite grasp the distinction.

Q. "shall be enforced" is mandatory. Surely "shall be enforceable" is all you want, or "may be enforced".

By Mr. Fleming:

Q. I should think that "shall be enforced" is preferable because all you are thinking of is that somebody will have to come along to the court and ask that the order referred to be enforced in that court.—A. Any court in Canada will recognize for enforcement the order of any other court in Canada. I would prefer the wording "shall be enforced".

Mr. FLEMING: I suppose we may finish this preliminary review of the Act this morning. We have only 28 clauses left.

The CHAIRMAN: I had hoped we might do that, and then we would take up with Mr. MacDonald some drafted amendments to be followed by the individual clauses which we have allowed to stand.

Mr. FLEMING: That would be this afternoon then.

Mr. LAING: Before you leave, Mr. Chairman, you circularized a number of people.

The CHAIRMAN: Would you mind bringing that up this afternoon, please, Mr. Laing.

The VICE-CHAIRMAN took the chair.

The VICE-CHAIRMAN: Clause 146.

MR. FLEMING: We have decided to restore section 170 subsection (1) of the present Act in its entirety.

The VICE-CHAIRMAN: Yes.

MR. FLEMING: Then subclauses (2) and (3) of clause 145 will be adopted, will they not? We are going to adopt them?

The VICE-CHAIRMAN: Yes. There is no charge in subclause (1) from the old Act. Does clause 145 carry?

Carried.

Does clause 146 carry?

Carried. No representations. Well, the only reference to "custodian" has been deleted. Carried.

Shall clause 147 carry? Subclause (2) is new.

The WITNESS: The procedure proposed in the subclause is to cover proof.

The VICE-CHAIRMAN: That is quite all right.

Carried.

Shall clause 148 carry? There is no recommendation there from anyone. Carried.

Shall clause 149 carry? There is one suggestion by the Toronto Board of Trade.

The VICE-CHAIRMAN: That was adopted and so was the other suggestion.

The WITNESS: Paragraph (a), (b) and (c) are substantially the same. Paragraph (f) relates to clause (11). Paragraph (g) relates to clause (8), subclause (9). Paragraph (h) was formerly paragraph (i) with a change taking out the limitation of \$500, since there is a right of appeal.

MR. FULTON: Paragraph (k). Mr. Chairman, isn't paragraph (k) a little bit sweeping.

MR. FLEMING: That is just to give him power comparable to that of a master of the supreme court in matters relating to practice.

MR. FULTON: It should be remembered that the powers of a master apply practically only in Ontario. Our registrars have not been given the power of a master under our supreme court rules. But our registrars have limited jurisdiction or power in British Columbia in ordinary matters in respect to procedure or otherwise. Yet here you are giving the registrar, because he is the registrar in bankruptcy, powers which he does not have as registrar of the supreme court in other matters.

The VICE-CHAIRMAN: That covers the actual practice, the present practice.

MR. FULTON: But it says that paragraph (k) is new.

The VICE-CHAIRMAN: It sets out more clearly the jurisdiction of the registrar. You may appeal to the court at any time from a decision.

The WITNESS: Yes.

MR. FULTON: It seems a waste of time.

The WITNESS: Your appeal would have to be resorted to very rarely.

MR. FLEMING: I should think it is altogether desirable that any sections defining the jurisdiction of the court or of any officer of the court should be most explicit, and as this particular power of the registrar would be recognized in practice it has not been as clearly defined in the bill as it might well be. I think it is a good idea to put it in this clause.

MR. FULTON: You are quite clear that it has been the practice right along?

The WITNESS: Yes it has.

The VICE-CHAIRMAN: Shall 149 carry?

Carried.

Clause 150 — there is no difficulty there.

MR. CANNON: I see in paragraph 2 there is no limit to the power of the registrar to allow fees.

The WITNESS: Yes, it is only the first step, there is an appeal from him.

MR. CANNON: What about What about (b), Mr. Chairman, that is new?

The VICE-CHAIRMAN: Yes.

MR. CANNON: Is there any particular reason given for that requirement?

The WITNESS: That is 149 (1) (b)?

MR. CANNON: No, 150 (e).

The WITNESS: Just to cover any case that might be worthy of appeal which does not fall within the enumeration. When the bill was first introduced in 1949, section 150 read like this: "Unless otherwise provided in this Act an appeal lies from the order or decision of a judge of a court to the Court of Appeal with leave of a judge thereof"; and that is all that was said. Now, the trouble when it was left that way was this, that it seemed to us that it was left too much up in the air as to the principles upon which a judge would proceed. I can very well see a judge of the court saying; well, you have not given me very much guidance to help me in determining when I should permit an appeal; so it was thought it would be well to leave it substantially as in the present section of the Act, which is now done in clause 150 of the bill, and then somewhat in line with clause 150 of the original draft bill, to put in paragraph (e) so that if the enumeration is not sufficient you provided that the judge can exercise a discretion.

MR. FLEMING: It is a residuary right?

The WITNESS: Yes. The enumeration is quite complete, but by adding this subclause (e) you afford the court a discretion so that he may permit an appeal should there be other cases in which justice is not covered by the enumeration.

MR. FLEMING: Is this a residual jurisdiction?

The WITNESS: Exactly.

The VICE-CHAIRMAN: Does clause 150 carry?

Carried.

Clause 151.

MR. FLEMING: What is omitted there? The compendium says, "suggested by Toronto Board of Trade that this be amplified to enable the registrar to act also where the inspectors have failed to act." Then it goes on to say; "not adopted. Instead, this paragraph has been deleted"—what did they leave out?

The WITNESS: They left that out. Section 151 of Bill L11, Mr. Chairman, corresponds to clause 149 of the present bill, so this note refers to clause 149 and not to 151.

MR. FLEMING: Not to 151 at all?

The WITNESS: No.

The VICE-CHAIRMAN: Shall 151 carry?

Carried.

Clause 152?

MR. FLEMING: That looks good.

The VICE-CHAIRMAN: Carried.

Clause 153?

MR. FLEMING: What was the reason for reporting from the provisions of the present 174 sub 4?

THE WITNESS: Just to confide it to the ordinary provisions covering appeals to the Supreme Court.

MR. CANNON: And he has to pay the appeal costs in any of these cases. In the old section he did not have to pay the appeal costs. That is the effect of it, it is not?

THE WITNESS: Just one moment, please.

MR. CANNON: They have taken out the last part of 174.

THE VICE-CHAIRMAN: I understand, but in civil cases as a rule you have to give security for costs in the Supreme Court if you want to appeal.

MR. CANNON: It seems to me it was a special rule in bankruptcy matters that you had to pay only \$100, or something like that, but now you have to deposit a much larger sum; you had to deposit only \$100 up until now.

THE VICE-CHAIRMAN: Yes.

MR. CANNON: And this section will alter the situation so far as that is concerned.

THE VICE-CHAIRMAN: What 153 really says, in effect, is that you will now have to follow the general rules of the Supreme Court. That would be all right. Why should we make a special exception in the case of bankruptcy?

MR. CANNON: Just because 174 subparagraph 4 has a provision with regard to costs and this new clause does not carry any similar provision I was wondering what the effect would be of the new clause.

THE WITNESS: Frankly, I would have to check on that.

THE VICE-CHAIRMAN: You might check on that and let us have a report.

MR. FLEMING: There was just one other point on that clause before you leave it. Suppose the judge who grants the leave to appeal directs that an order should be stayed in part only, there does not seem to be any provision here that would enable him to stay it in part and allow it to operate in part. The present clause 174(4) seems to make provision for that. Would it not be a good thing to add the words, "and to the extent to which he shall so order"?

THE VICE-CHAIRMAN: We could add that.

MR. FLEMING: Yes, I think we should add those words to clause 153 to provide for that.

THE VICE-CHAIRMAN: Mr. Fleming moves, seconded by Mr. Fulton—

MR. FLEMING: Excuse me, Mr. Chairman, I think maybe we had better leave that to the Superintendent for redrafting.

THE VICE-CHAIRMAN: All right. We will allow the clause to stand.

MR. FLEMING: Have you got that point?

THE WITNESS: Yes. I was going to suggest that I think the point well taken and it probably could be easily covered because we have a previous section to copy; and, subject to further consideration, what would you think of these words: "and to the extent that," to go in just after the word, "unless"?

THE VICE-CHAIRMAN: All right, we will leave it there and consider it when we come back to the clause. Is it necessary?

MR. FLEMING: It may be in the next couple of months.

THE VICE-CHAIRMAN: We will let that clause stand.

Clause 155: I believe that the answer to the suggestion of the Canadian Bar Association is contained in a note in the compendium. That relates to subclause—

The WITNESS: That is subclause 3.

The VICE-CHAIRMAN: Oh, yes, subclause 3.

Mr. FLEMING: Could we have some further explanation in connection with subclause 7, Mr. Chairman, on this point recommended by Mr. Wickett, K.C., Toronto, which was discussed in the compendium indicating that there had been some conflict in the official decisions?

The WITNESS: The case mentioned is a case which has not been followed by any other province, to the effect that the increase is not limited to 10 per cent. Mr. Wickett suggested that that decision be followed in the new bill. It was not adopted because that was not the intention behind the draft.

Mr. FLEMING: Well, subclause 7, as I understand it, states what has been the practice prevailing in the Ontario courts; am I right in that?

The WITNESS: Yes, and Mr. Wickett wished that to be departed from in favour of the New Brunswick decision.

Mr. CANNON: What was the effect of the New Brunswick decision; to include that practice of more than 10 per cent?

The WITNESS: It was to the effect that 10 per cent was not a limit, as appears to be the sense of the present clause 162, subclause 3 which reads; "Notwithstanding anything contained herein in any estates where the gross proceeds do not exceed \$5,000, the costs or fees payable may by unanimous vote of the inspectors be increased to any amount not to exceed 10 per centum of the gross proceeds of such sale"; and the New Brunswick court said that that 10 per cent mentioned there was not a limit fixed by the section, but could be exceeded.

Mr. CANNON: I cannot see it.

The VICE-CHAIRMAN: Shall clause 155 carry?

Carried.

Clause 156.

Mr. BENNETT: Shall we adjourn now?

Mr. FULFORD: If some of us leave there may no longer be a quorum here, and I have an urgent appointment.

The VICE-CHAIRMAN: We will adjourn until 3.30 o'clock this afternoon.

AFTERNOON SESSION

The committee resumed at 3.30 p.m.

The CHAIRMAN: Gentlemen, I see a quorum.

At the luncheon adjournment the committee was dealing with clause 156. If we take a paragraph at a time perhaps we can deal with it more easily.

Mr. T. D. MacDonald, K.C., Superintendent of Bankruptcy, recalled:

Shall subclause (a) carry?

Mr. STEWART: May I ask if there is any material difference between this clause and 191 or is it merely a condensation?

The WITNESS: I would not say there is any material or substantial difference; there is a certain amount of rearrangement.

Mr. LESAGE: In 191 there were a lot of repetitions.

The WITNESS: Just take a spot check. If you notice 191 (c) on the right hand side of the page would now be covered by a combination of (a) of 156 and clause 117 (b).

Mr. FLEMING: I notice that Mr. Justice Urquhart apparently strongly preferred the provisions of the old clause 191 to the new clause. I gather his feeling in general was that the new clause is too drastic in some particulars.

Mr. LESAGE: The old clause was surely not drastic enough and we had a lot of trouble enforcing it. It was not enforceable, as a matter of fact, and in practice there was a lot of trouble.

The WITNESS: I might say to Mr. Fleming that subsequent to Mr. Justice Urquhart's recommendations, the paragraph was extended. He objected to certain omissions, but they have now been taken care of.

By Mr. Fleming:

Q. Do you feel then that the section in its present form largely meets the objections of Mr. Justice Urquhart?—A. I am not sure that I would be justified in putting myself in the position of saying "largely". What I did was to go over the clause in the light of Mr. Justice Urquhart's representations and I concur that there were certain things that were not sufficiently covered and put them in the clause accordingly.

Mr. FLEMING: Mr. Chairman, you remember in that communication you had from Mr. Justice Urquhart on Tuesday—there were a couple of questions that he particularly mentioned. Is this one of them?

The CHAIRMAN: He referred to clause 21, subclause (6).

Mr. FLEMING: Yes, I know that point. That is the one we are going to take up later, I understand.

The CHAIRMAN: Yes, we stood that.

Mr. FLEMING: There is no other section that he mentioned especially?

The CHAIRMAN: Mr. Lesage, in looking over the requirements of clause 117, it would appear to me rather drastic to subject a man to imprisonment for failure to deliver—to make these statements.

Mr. LESAGE: It is according to the general principle of Criminal Law that *mens rea* has to be part of the offence, so if he does not deliver one of his books without intent, he just forgets it for instance, he has a good defence against any criminal prosecution under clause 156. There has to be intent. There has to be *mens rea*.

The CHAIRMAN: You see, that is rather a full statement, names and addresses and all that sort of thing.

Mr. LESAGE: Yes, but *mens rea* is a part of the offence, an essential part. Without *mens rea* there is no offence and of course when you say *mens rea* you imply that there must be an intention to defraud, to go around one of the provisions of the Act.

Mr. FLEMING: In other words, it must be wilful.

Mr. LESAGE: It must be wilful.

Mr. HUNTER: I do not follow your point, Mr. Lesage. In this it says "neglect".

Mr. LESAGE: Yes, but the negligence has to be intentional, wilful; it must be a wilful negligence because *mens rea* is always a part of a criminal affair.

Mr. HUNTER: Surely the very meaning of the word negligence means it is not wilful; you are negligent.

Mr. FLEMING: Might it not, Mr. Chairman, meet the objections and stress the point of *mens rea* if in clause 156 subclause (a) we inserted the word "wilfully", so it would read "wilfully fails, refuses, or neglects" to do any of the things required by clause 117. I think that would meet the point that Mr. Hunter is raising that a neglect simply involves the absence of intent in one way or the other.

Mr. HUNTER: It is an act of omission.

Mr. FLEMING: Yes, if you insert the word wilfully it makes it quite clear.

Mr. LESAGE: There is no objection. It does not change the onus of the proof or evidence; it is always on the prosecution to prove the two elements of the offence, the fact and the *mens rea*.

Mr. FLEMING: Quite, but it will reinforce the point that it is intentional neglect under clause 117 that we are endeavouring to penalize under clause 156 (a).

Mr. STEWART: Will that apply to all the following subclauses too?

The WITNESS: You can put the word "wilfully" after the word "who" and then it will apply to all the following subclauses.

Mr. CANNON: Well, I thought of that but I decided not to recommend it because there are some things here it would not apply to—(b) for instance, "makes any fraudulent disposition."

Mr. LESAGE: If it is fraudulent it has to be wilful.

Mr. FULTON: Referring to another bill that we are considering in the House, it has been shown in discussion of the Crime Comics Bill that where in the criminal code you have the words "knowingly, without lawful justification or excuse", there the crown has to prove affirmatively that he knew and had no lawful justification or excuse, whereas if they were not there, and the word "wilfully" is not here, then it is a rebuttable presumption, to be met by the defendant, that he intended the probable consequences of his act. Therefore, if you put the word "wilfully" in here the crown has to prove an extra element instead of it being a rebuttable presumption against the accused.

Mr. HUNTER: How are you going wilfully to refuse?

The WITNESS: Or wilfully neglect. It is not an apt expression to qualify neglect.

Mr. HUNTER: It is almost a contradiction in terms.

The WITNESS: It is a contradiction in terms in the case of neglect.

Mr. CANNON: I suggest we leave it as it is, leave it to the judge's discretion. As Mr. Lesage says there is always an element of *mens rea* in it. I think if we started inserting the word "wilfully" it may lead to complications in the application of it.

The CHAIRMAN: What paragraph do you believe the addition of "wilfully" should be made in to make it read the way it should, Mr. Cannon?

Mr. CANNON: Well, I am not in favour of inserting the word "wilfully" anywhere. It makes the application of the whole paragraph too difficult by imposing on the prosecution the onus, as Mr. Fulton just said, of providing intent affirmatively, and if you just apply it to subclause (a) you make a distinction between subclause (a) and the other paragraph which might lead to complications.

Mr. FLEMING: There is no objection to the offences created by subclause (b) to (i) inclusive, the only question is whether subclause (a) is not too drastic; You may be penalizing a mere omission.

Mr. LESAGE: If there is no *mens rea* there is a defence.

Mr. FULTON: In one of the earlier clauses, I thought it was in one of the clauses after 117, an action might be taken against a person who refused by bringing him to court on a warrant.

Mr. CANNON: In the old article there was an option between imprisonment and a fine, and there does not seem to be any option in this one. It is just imprisonment. Now, the chairman said that is too drastic. One way to avoid it being too drastic is to give the judge the option of imposing a fine.

The WITNESS: The object of that was to make it more drastic. With a fine you would be penalizing the creditors rather than the debtor.

The CHAIRMAN: The fine would not be payable out of the estate?

Mr. LESAGE: Where could it come from then?

The CHAIRMAN: It would not come from the bankrupt, it would come from his friends.

Mr. LESAGE: I think where the maximum penalty, the imprisonment penalty is for a year, or less than five years, the attorney-general of the province must always consent.

The CHAIRMAN: For an offence under the Code I doubt very much if that would apply.

Mr. LESAGE: I don't know. I am asking the question.

The CHAIRMAN: I doubt it very much.

The WITNESS: Let me see now, I have something on this—liable on summary conviction to imprisonment for a term not exceeding one year—

Mr. LESAGE: Is there any section saying that the Criminal Code applies?

The WITNESS: Yes, to answer you away from the book; and my immediate impression is that the provisions of 1035 of the Code would apply.

Mr. LESAGE: Would apply?

The WITNESS: Yes. My only mental reservation is on the score of summary convictions.

Mr. LESAGE: Yes, because it is not part 15 of the Criminal Code.

The WITNESS: But upon indictment my recollection is that section 1035 of the Code is one of the general procedural provisions which applies to all Dominion legislation.

Mr. LESAGE: Could we have Crankshaw's Criminal Code?

The CHAIRMAN: It does not make it an indictable offence, it just makes it a summary conviction.

The WITNESS: It is alternative.

The CHAIRMAN: Or on conviction on indictment; yes—no, under indictment it is three years and on summary conviction one year.

The WITNESS: Yes.

Mr. FULTON: Surely if a bankrupt neglects to do anything required of him under clause 117, in view of any of the provisions in clause 117 for giving him due notice of what is required of him with regard to attending his examinations before the trustee and so on; if he neglects—in fact any failure to comply with those orders or directions, and so on, can only be taken to be a deliberate act on his part.

The CHAIRMAN: Well, how about this? Supposing he is not in a position to comply, he would still be liable; supposing he has not in his possession all the papers covering the property.

Mr. LESAGE: If he cannot deliver them physically then he has a good defence in any criminal prosecution and there is no *mens rea*.

The CHAIRMAN: That is why I would like the word "wilfully" put in.

Mr. LESAGE: I do not believe, Mr. Chairman, you should put the word "wilfully" in because *mens rea* is an essential element of any criminal offence.

The CHAIRMAN: Yes, but this is not exactly a criminal offence.

Mr. HUNTER: I do not think there is any *mens rea*.

Mr. LESAGE: Well, what about the situation supposing there is no negligence, what about *mens rea* then?

Mr. FULTON: But that is a criminal offence.

Mr. RICHARD (Ottawa East): There is no *mens rea* in it then.

The WITNESS: As I understand, the objection centres not on the words refuses or neglects, as to which I suppose there is no objection, but it attaches to the word "fails". I think that is so, Mr. Chairman.

The CHAIRMAN: It makes it that much more difficult. You would not have *mens rea* just because of the fact that a man fails to deliver a document.

The WITNESS: I am inclined to agree with Mr. Lesage.

Mr. LESAGE: You don't prove *mens rea*, the judge and jury on hearing the case detect *mens rea* from the facts, from the proven facts of evidence.

Mr. FULTON: If an accused establishes that it was impossible for him to comply with the terms then he has the assumption that *mens rea* was there, or that there was an intent.

The CHAIRMAN: *Mens rea* is something which has to do with the commission of crimes. If we by statute set up certain requirements and say that a man shall do this and if he omits to do it or fails to do it he is liable to imprisonment; I may be wrong but I cannot see how *mens rea* figures in that at all.

Mr. FLEMING: May I make a suggestion? There has been objection taken to the words "neglect" and "fails", would it meet the needs of the situation if we were to eliminate those two words and simply say refuses, the word "refuses" definitely implies the element of will.

The CHAIRMAN: Oh yes, you would be perfectly safe if you did that.

Mr. FLEMING: If we simply made that subclause read, "who refuses to do anything"—and that will eliminate completely any possibility of his being prosecuted for anything less than that.

The WITNESS: And it also eliminates a large part of the effectiveness of the section.

Mr. FLEMING: I agree, and in that case the trustee would have to say to this man: you have not complied with such and such provisions of 117, now you must do so; and if he refuses then he is committing an offence.

The WITNESS: But he won't refuse, he will only keep saying: I will do it tomorrow.

Mr. FLEMING: Well, then, you will simply have to take care of that by saying "wilfully fails".

The WITNESS: If there were to be any amelioration of that section it seems to me that the chairman's objection would be met by rephrasing (a) to say, "refuses, neglects or fails without reasonable excuse to do any of the things required of him under clause 117".

The CHAIRMAN: I would be quite satisfied with that.

Mr. LESAGE: About that question of *mens rea* under a statutory offence, would you mind if I were to quote the latest judgment in an appeal to the Supreme Court of Canada? I recall something on this line arising out of such an appeal but I cannot put my hands on it at the moment. The jurisprudence on the point was settled two or three years ago but I do not recall the exact

case at the moment. Would you allow me overnight in which to look it up and speak to the point tomorrow?

The CHAIRMAN: Shall we let the clause stand, or what do you think of Mr. MacDonald's suggestion? It is, "fails, refuses or neglects without reasonable cause".

Mr. CANNON: I think that would cover it.

Mr. LESAGE: Yes.

The WITNESS: Reasonable excuse would only apply to fails, because refuses or neglects is in a different category.

Mr. HUNTER: In this clause as presently constituted, neglects to do something—

The CHAIRMAN: We will come to that in a moment, Mr. Hunter; but I do think the amendment suggested by Mr. Cannon and Mr. MacDonald—fails, refuses or neglects without reasonable cause—

The WITNESS: Might I suggest, Mr. Chairman, that "without reasonable cause" qualifies only the word "fails"?

The CHAIRMAN: Yes. Then it would read "refuses, neglects or fails without reasonable cause".

Mr. FLEMING: No, that is going to be ambiguous, you would have to say "without reasonable cause fails".

Mr. HUNTER: Why qualify "fails" and still leave "neglects" which is a still more minor thing than "fails".

Mr. BENNETT: It is not the word "fails" that should be covered, it is the word "neglects".

The WITNESS: No, a person who neglects to do a thing—the word "neglect" itself implies indifference; as the chairman suggests, amounting almost to *mens rea*.

Mr. FLEMING: There is no harm in putting it this way: "refuses or without reasonable cause fails or neglects to do so and so".

Mr. BENNETT: Why not forget the word "neglect" altogether, and say "refuses or fails without reasonable cause to do any of the things required"?

Mr. FLEMING: It is a little different; "neglect" is only one of the things which might cause failure to do it.

By Mr. Bennett:

Q. "Refuses or fails without reasonable cause".—A. To carry that thought a little further, perhaps "refuses" could come out. I think you may have something there. Perhaps "fails without reasonable cause" is all that we need.

The CHAIRMAN: I think that is right.

Mr. FLEMING: It may be that Mr. MacDonald would like to give some further consideration to this matter.

The CHAIRMAN: I think he has reached a decision.

The WITNESS: I would like to accept it subject to looking it over tonight, and if I want to come back and say something more about it, I shall be allowed to do so.

The CHAIRMAN: It stands then: "fails without reasonable cause". Subclause (b) is carried. Subclause (c)?

Mr. LESAGE: Instead of "neglect" you could put "fails".

Mr. FLEMING: No. You want the wilful element here.

Mr. CANNON: I think it is all right. When it comes to answering a question, he either refuses to do so or says he cannot.

The CHAIRMAN: Subclause (d) is carried.

Mr. STEWART: Subclause (d) may be a little harsh having regard to the arguments which went down with regard to subclause (a). It is possible to make a material omission. I know that I have made false entries in the past.

Mr. FLEMING: I hope you have not made false entries, but rather that you made entries which were untrue. The omission could be quite accidental as a result, let us say, of inadvertence.

Mr. HUNTER: Isn't that inclined to be a dictionary definition of "false"? Are there not other meanings of the word?

The CHAIRMAN: An incorrect entry is not necessarily a false entry.

The WITNESS: You do not need "knowingly" to qualify "false". "False" in that context implies knowledge of the falsity.

By Mr. Fleming:

Q. That does not apply to material omission?—A. I am pretty sure about that because I enquired. I was curious about that point at one time in going through the bill and I looked into it and came to the conclusion that "false" in a context like that would imply "false to the knowledge of the person who made the statement, excluding innocent mistakes."

Mr. HUNTER: Then there is nothing to worry about.

Mr. FLEMING: It does not take care of material omission. It could conceivably be made by inadvertence without any fraudulent intent.

The CHAIRMAN: Or the word "deliberately".

Mr. FLEMING: Or "knowingly".

Mr. BELZILE: "knowingly" would cover it.

The CHAIRMAN: Or "knowingly omit".

By Mr. Lesage:

Q. Instead of "knowingly" put "without cause".—A. You can make a substantial number of omissions just through not taking a little care, without being tied down to "knowingly".

By Mr. Stewart:

Q. We assume that all omissions are made through carelessness.—A. Perhaps I should just mention this—it is no reason, of course, why there should be anything unfair or unjust in this clause—that is not my intention—but the tightening up that occurs in the clause has been as a result of failures of the old section to strike all situations which should be corrected.

The CHAIRMAN: That being so, that brings us to the penalty. Perhaps we could leave it to the discretion of the judge, as long as we give him a discretion, or to the trial magistrate, as long as we give him a discretion of a fine.

By Mr. Fulton:

Q. Is Mr. MacDonald trying in a sense to impose an absolute duty on the bankrupt not to be careless in answering questions?—A. That is right, certainly.

Mr. FLEMING: It goes beyond not being careless. You are imposing upon him a duty of accuracy and I think it would be pretty hard in the case of a lot of people.

The CHAIRMAN: As long as the omission is an important one, it is a violation, even though it is as innocent as can be. Therefore I say that we can safely leave it to the trial magistrate or to the trial judge, so long as we give him a discretion as to penalty.

Mr. FULTON: He has it up to a term not exceeding one year.

The CHAIRMAN: What about a fine?

By Mr. Hunter:

Q. Perhaps Mr. MacDonald could tell us how the practice of a fine is worked out. Can a bankrupt pay a fine?—A. What do you mean?

Q. As a matter of practical everyday life, take a person who has all his assets vested in the trustee, can he pay a fine?—A. Not unless he can get it from a friend or take it out of his future earnings which the trustee is not able to put his hands on, otherwise he has no means of paying a fine.

By Mr. Fleming:

Q. I suppose in ordinary practice these prosecutions would arise only after all the bankrupt's property has been vested in the trustee. We know from clause 135 (1) (a) that the order of discharge of a bankrupt does not affect any final penalty that has been imposed upon him. I should think it would be pretty clear that there would be no right on the part of the court which has imposed the fine, after the bankrupt has agreed to pay any claim on the estate.

The CHAIRMAN: It cannot come out of the estate.

Mr. FLEMING: It could not possibly do so under those circumstances.

The CHAIRMAN: It would have to come from his subsequent earnings. It will have to come from his friends, or subsequent earnings.

Mr. FLEMING: Either he raises the money from other sources or gets it as you have said. I really do not think there is any danger of its affecting the rights of the creditors.

Mr. LESAGE: No, but as a matter of fact it is there at the end of this clause —“is liable on summary conviction to imprisonment for a term not exceeding one year or on conviction under indictment to imprisonment for a term not exceeding three years.” There is no alternative, he cannot be fined, he has to serve where there is a conviction, he has to serve three years.

The CHAIRMAN: Where it is by indictment.

Mr. LESAGE: Yes, where it is by indictment, under summary conviction it is one year; but the judge has a certain amount of discretionary power according to the provisions of section 1035 of the Criminal Code.

The CHAIRMAN: That is on summary trial and following conviction for an offence.

Mr. LESAGE: Or by any court on indictment, an indictable offence is punishable by imprisonment or a fine in lieu of such punishment, for offences such are contemplated here.

The CHAIRMAN: But on summary conviction there is no alternative.

Mr. LESAGE: No, if you look at part XV of the Criminal Code which is summary convictions, the judge cannot fine him, but if you go under indictment, which is a more serious form, then you can give him a fine in lieu of imprisonment.

Mr. HUNTER: Does that apply to bankruptcy offences?

Mr. FLEMING: It would, in view of the concluding point in clause 156.

Mr. LESAGE: Yes —“is guilty of an offence and is liable on summary conviction to imprisonment for a term not exceeding one year or on conviction under indictment to imprisonment for a term not exceeding three years.”

Mr. HUNTER: It refers there to the powers under section 1035 of the Criminal Code.

MR. LESAGE: Those powers are only for procedure under parts XV and XVI. Part XV deals with summary convictions; and speedy trial, or summary trial, is part XVI; and then you have 17 and 18.

MR. HUNTER: Is there not a provision there that that is limited to offences under the Code?

MR. FLEMING: It is offences —

MR. LESAGE: —punishable by indictment.

MR. FLEMING: Yes.

THE WITNESS: I think Mr. Lesage is right on that. I think the words should be added there similar to words which are added to many sections of the Code, to the effect that section 1035 of the Code does not apply.

MR. LESAGE: Or otherwise let us impose a fine in the case of a summary conviction.

MR. CANNON: I think we should go back to the old draft where it applies in both cases, summary conviction and indictment, and leave it up to the judge.

MR. LESAGE: Yes.

MR. FLEMING: I think that is fair enough.

THE WITNESS: May I read the notes in the Australian experience, just for the record. The Inspector-General in Bankruptcy for Australia wrote in 1937; to provide for fines against the bankrupt is ludicrous as the property of the bankrupt at the date of sequestration and that which he acquires before his discharge vests in the official receiver or trustee with the exception of such as are required for his sustenance, and any fine inflicted can only be paid out of the creditor's money.

MR. FULTON: Did you inadvertently leave out the provision for a fine, or was it the intention to leave that out?

THE WITNESS: It was intended to leave it out.

MR. FLEMING: You did that knowingly and deliberately.

THE WITNESS: Yes.

THE CHAIRMAN: But I still think that this memorandum is in error; a debtor does earn money after his bankruptcy and as to any money that he earns after bankruptcy, he could use that to pay his fine with.

THE WITNESS: Yes. The question of a fine would come up ordinarily while he was still bankrupt and without any money, any free money; and any such free money is available to the trustee.

MR. FLEMING: That is a circumstance which the judge will take into account when the debtor is before him. The man is there giving his evidence and where the judge sees that the imposition of a fine is going to penalize the creditors rather than the accused, in such cases he will exercise his discretion and impose an alternative form of sentence.

THE CHAIRMAN: Yes, he will act as he sees fit and impose either suspended sentence or a very small fine.

MR. FLEMING: Yes.

MR. HUNTER: Take these penalties in these quasi criminal offences, the tendency seems to be to treat them rather lightly, is it not?

THE CHAIRMAN: I do not know on interpretation whether a magistrate could impose a fine in dealing with an offence under the clause as it now stands.

MR. HUNTER: I know that, but I say there is a tendency to be lenient; that there is a tendency on the part of our magistrates, and we all know it, in cases of a quasi criminal nature, to treat them rather lightly. What are we here trying to do? Are we trying to strengthen this or not?

THE WITNESS: The experience has been that it is frequently a very small fine.

Mr. HUNTER: Yes, a very small fine of \$25 or ten days.

Mr. LESAGE: But it has never been made against the estate in the past.

Mr. HUNTER: If it is going to strengthen the section let us leave it as it is; if not, put in the fine.

Mr. FLEMING: I would like to be shown that hardship has resulted or an unsatisfactory situation arisen from the law as it has stood over the last thirty years under section 191, with the alternative provision of a fine or imprisonment or both.

Mr. LESAGE: I have known many cases where the debtor, the bankrupt, in the months preceding his failure has done things which surely he would not have done if he had thought or known that the Act carried a penalty of imprisonment for him. It is a deterrent.

The WITNESS: And we receive many complaints and representations to the effect that prosecutions are rendered ineffective because of the light penalty that is imposed.

Mr. FLEMING: Is that due to the fact that a fine can be levied instead of a prison term?

The WITNESS: That is due to the fact that a fine can be levied, a small fine is levied very often.

Mr. FLEMING: There is nothing to prevent a magistrate, or a judge even, if he has got the power here to imprison, from giving suspended sentence.

Mr. LESAGE: I think that is a matter for the attorney-general.

Mr. HUNTER: If he applies against the bankrupt.

Mr. LESAGE: We will have to put in that provision, that 1035 does not apply.

The CHAIRMAN: If you follow that through to its logical conclusion we are reaching a decision that our magistrates do not use good judgment in the circumstances and we are going to take the matter out of their hands and see that they impose a penalty far greater than they think should be imposed. Mr. MacDonald, your complaint is that they are too lenient, that the fines are too small and are not effective.

Mr. FULTON: It seems to me that Mr. MacDonald's argument has been that under the law as it stood the bankrupt had tended, shall we say, to be careless in making disclosures, in making answers to questions which are asked of him, and that carelessness sometimes appears to be not too serious and the magistrate then imposes a small fine. I take it his argument is—perhaps the thought in the back of his mind—that if the magistrate has no power to impose a fine the prison sentence must follow any such omissions and then the bankrupts are going to be much more careful in making the answers to the questions, and in that way the whole purpose of the Act will be better served. Isn't that your thought?

The WITNESS: A term of imprisonment without the option of a fine generally speaking does have a greater deterring effect than a punishment which contains the option of a fine.

Mr. FULTON: And the magistrate, Mr. Chairman, is naturally dealing with an offence which has occurred, and it would be difficult, for instance, for a magistrate to say that in his opinion this offence is so serious that he should make an example which will have a salutary effect on other people in bankruptcy or facing bankruptcy throughout Canada. He deals with an offence which has just occurred and which seems to him to be trivial, and in so doing he treats it, shall we say, lightly. If this is strengthening the law, if by making certain that the penalty is a prison term without the option of a fine, then perhaps the point is well taken.

Mr. LESAGE: I agree with you, because a chap under those circumstances is going to be a little more careful in the representations he makes.

The CHAIRMAN: I do not mind people being put in the position where you can threaten them and make them do what you think should be done to give effect to the provisions of an Act of this kind, and I do not for a moment believe that one bankrupt in fifty, if he knew he was liable to a prison term, would fail to respond in all proper matters.

Mr. BELZILE: Is it not a fact that a trustee is very reluctant to place a charge against a bankrupt; and is it not your experience that the attorneys-general of the provinces will never proffer an indictment against him in fact?

The WITNESS: Well, I could be factual and say that in so far as I know—

Mr. LESAGE: The attorney-general of the province takes up the case only after the man has been committed for trial, after the primary hearing has been completed and the case sent on to him.

Mr. RICHARD (*Gloucester*): In clause 9, what is meant by the word "speculation"?

Mr. CANNON: If you read clause (d) in relation to the concluding clause and you contemplate a man going to jail without the option of a fine, having made hazardous speculations; I think that is another argument in favour of what you said, that it is a good thing to leave out the option of a fine.

Mr. BENNETT: Don't you think it would be more difficult to obtain convictions when there is not the alternative of a fine?

Mr. HUNTER: It seems to me that this is a matter of policy. We are saying in effect, leaving it the way it is, that the general public, including the magistrates, tend to regard these offences rather lightly and we need to raise public morality to a higher level, but you cannot raise public morality to a higher level by legislation, legislation has to go with public morality.

Mr. FULTON: To get back to clause (b), out of which the prosecution arises, if you put in there, "who makes a false entry or knowingly makes material omission"—and thereby conceals, is liable to imprisonment for one year you have pretty well covered the case you intended to and you have introduced the element of intent or deliberation; and then, if a man does that, he deserves, surely, not to have the option of a fine.

The CHAIRMAN: "Knowingly makes a material omission" would cover it.

The WITNESS: Or, say, "knowingly or negligently".

Mr. FLEMING: That is mere carelessness. Surely we are not going to penalize mere carelessness, because there is a lot of carelessness in matters of this kind.

The CHAIRMAN: Clause (d) carried. Clause (e).

Mr. FLEMING: What are we doing with (d)?

The CHAIRMAN: "Knowingly makes a material omission", Mr. MacDonald accepts that.

Mr. LESAGE: Don't you think six months is too short a period? I had one case in which some books had been mutilated or falsified a little more than seven months before the assignment. At that moment the bankrupt was already insolvent and he had falsified his books.

Mr. CANNON: In a case of that kind could you not have had him apprehended and prosecuted him under the Criminal Code?

Mr. LESAGE: Well, I studied the matter carefully and there was nothing that I could do. These were his own books.

Mr. FLEMING: What do you suggest?

Mr. LESAGE: Two years, the same as in the other clause.

Mr. FLEMING: Clause 158, line 18—"has not kept proper books of account during the two years"—and then (c) "after or within the two year period mentioned in paragraph (a)".

Mr. LESAGE: That is right, but that is in the case of a person who has been a bankrupt previously—six months is not a very long period, it should be for a longer period than that.

Mr. FLEMING: You would expect him to do that for the current year.

The CHAIRMAN: What would you think of putting the words "after bankruptcy" in the second line, and saying "at any time after insolvency".

Mr. LESAGE: Insolvency has to be proven with his own books and that is very difficult.

Mr. FLEMING: Is there any objection to making it a year?

Mr. LESAGE: A year would be better than six months anyway; so the word "six" would be replaced by the word "twelve".

The CHAIRMAN: Agreed?

Agreed.

Subclause (f):

Mr. FLEMING: Is that not the same thing? Should we not make that twelve months with regard to false representations also?

Mr. LESAGE: My case deals with the problem which I have in mind. This man falsified his books and then made a report to the bank, a report which was false, and he obtained credit on it.

Mr. FLEMING: Why should it not be twelve months there, the same as in the preceding clause?

Mr. LESAGE: Yes.

Mr. FLEMING: It is falsification in both cases.

The CHAIRMAN: Now we come to the contentious subclause, (g); what are we to do with that?

Mr. LESAGE: I wonder if we should not come back to the first proposition of Mr. Fleming which was to add the word "wilfully" after the word "who" in subclause (a). That would avoid all this discussion.

By Mr. Hunter:

Q. Who proposed paragraph (g)?—A. (g) was taken from the English Act.

Q. And what has been the experience of the English with it? Have you any information about it, Mr. Chairman?—A. No, I have not. It was taken from the English Act and was placed in our bill by a previous superintendent.

Mr. FLEMING: We can leave "gambling" in, but I think we had better take out "by rash or hazardous speculations". A man might decide to make himself rich by purchasing, let us say, oil stocks.

Mr. HUNTER: Would that be gambling?

Mr. FLEMING: He might not think it was gambling. I would just leave in "gambling" and cut out these other references.

Mr. HUNTER: Gambling has a very wide connotation.

Mr. GOUR: I know of a man who was quite honest in his business but he believed that he could get rich by going into big business. The result was that he came very close to bankruptcy. We have not got anything which would apply to a case like that.

The CHAIRMAN: I do not think there would be any serious harm done if we struck out that subclause altogether.

By Mr. Fleming:

Q. Gambling is defined in the Code and also in the Gaming Act.—A. It is not defined in the Code. You have to determine in each case whether it is gambling.

The CHAIRMAN: Is it agreed to cut out (g) entirely?

By Mr. Fleming:

Q. There is nothing in the present Act which is a counterpart of it?—A. This is correct.

Q. Very well, I would take it out.

The CHAIRMAN: Is it agreed to cut out (g) entirely?

Mr. FLEMING: That would change the lettering of (h) and (i); and under (h) we had better change "six" to "twelve". This is a type of fraud.

The CHAIRMAN: Yes. (h) will now be relettered (g); and the amendment will be made from "six to twelve months." Is that agreed? And a similar amendment in the following subclause.

By Mr. Stewart:

Q. Does that mean "fraudulently conceals" or "fraudulently removes" in line 31?

Mr. BELZILE: I think that "fraudulently" applies to "removes".

By Mr. Hunter:

Q. That is a matter of interpretation of English. Who is an expert here on that subject?—A. I am not an expert, but I would be of the opinion that "fraudulently" would qualify both words.

By Mr. Fleming:

Q. There is a feature of the new paragraph (h), the one which was lettered (i) before, with which I do not agree in lines 38 and 39:

"... unless in the case of a trader such pawning, pledging or disposing is in the ordinary way of trade and unless in any case he proves that he had no intent to defraud;"

I dislike very much shifting the normal burden of proof. Why shouldn't it be a part of the regular burden of proof borne by the prosecution to prove intent? I do not like these cases where we are trying to put on the accused the burden of disproving the intent to defraud.

By the Chairman:

Q. What do you say to that?—A. The burden of proof is only shifted under (i)

The CLERK OF THE COMMITTEE: New paragraph (h).

The WITNESS: Under new paragraph (h), yes, the former one marked (i), and that is in the case of property obtained on credit. If he disposes of any property which he has obtained on credit and which he has not paid for, you in effect put upon him the presumption that he intended to defraud. The question is whether that is too harsh in a situation where without paying for the property he pledges it to obtain more credit.

By Mr. Fleming:

Q. You have that provision, it is true, under subclause (n) of the present Act, section 191 subsection (n); unless he proves he had no intent to defraud. Personally, I do not like it.—A. That is the Act in section 191 subsection (n) and (o), the same idea.

Q. But I do not like it.—A. It doesn't seem to me that it is an unduly harsh provision. Consider the case of a man who has bought goods from you. He is a bankrupt now or he is within six months or a year of becoming a bankrupt and then, in order to get more credit, he pledges those goods to somebody else without having paid you. Is it asking too much to tell that man that he must explain that he did not intend to defraud?

Mr. RICHARD (*Gloucester*): A fellow has the right to protect himself through filing a bill of sale or something in the nature of a lien. He takes his chances.

Mr. FULTON: I agree with Mr. MacDonald. The operation might be this: a person is hard up financially and he says: how can I get some ready cash? Well, I will go and buy a machine and having got possession of that machine I can pledge it to somebody else and get so much money. *Prima facie* it is a fraudulent operation.

Mr. CANNON: There is an element there that is necessary but which is not expressed in the subclause. That is, if a person who buys a machine on the instalment plan does not pay his vendor. Suppose I bought a machine on the instalment plan and it is not paid for. Then I sell it to somebody else. The machine was not paid for when I sold it. It would still be an offence under this clause unless you have something in the clause which makes it an exception.

The WITNESS: All you need to do is come in and explain the circumstances.

Mr. LESAGE: Unless he proves he has no intent to defraud.

Mr. CANNON: That is where it comes in handy.

The CHAIRMAN: Suppose a man got a piece of furniture on credit and then became hard up?

Mr. CANNON: I do not think we are unduly imposing a burden on the man who has not proven his innocence; but the circumstances are suspicious to begin with, in that he has sold something which he bought on credit, and he sells it for cash. So let him prove that his intent is not to defraud.

The CHAIRMAN: Shall the clause carry?

Carried.

By Mr. Lesage:

Q. If the clause carries, I suggest that something be added so that section 1035 of the Criminal Code will not apply.—A. Yes, that would be an appropriate amendment.

Q. If the clause carries, is it the whole clause or subclause (8) only?

The CHAIRMAN: The whole clause. We are through with it now.

Mr. FLEMING: But we have not dealt with the last four lines.

The CHAIRMAN: I understood apropos these amendments we made as we went along that the committee is now content with an imprisonment penalty and not a fine.

Mr. FULTON: Yes, but there is an option of a fine under the indictment procedure.

The CHAIRMAN: And you want to remove it?

Mr. FULTON: That, I think, was the suggestion.

By Mr. Lesage:

Q. But he would not have had it under summary conviction.—A. The last four lines of clause 156 should have contained these words to carry out their intention, "the words and provisions of section 1035 of the Criminal Code shall not apply".

Q. Mr. Hunter wondered if the offence prescribed under indictment under the Bankruptcy Act is to be an indictable offence, because it was not in the Criminal Code.—A. Under section 28 . . .

Mr. LESAGE: Yes, under clause 28 of the Interpretation Act it is.

By Mr. Hunter:

Q. I presume that under a clause worded such as this, the accused would have no option of a trial by judge and jury.—A. Oh, he would, if charged by way of indictment.

Q. No.—A. Oh, he has no option whatever as to whether he is to be charged by way of summary conviction or indictment.

The CHAIRMAN: Carried. Shall clause 157 carry?

Mr. LESAGE: How did you word the amendment? I was not listening at the moment.

The CHAIRMAN: "and the provisions of section 1035 of the Criminal Code shall not apply".

Mr. LESAGE: All right.

The CHAIRMAN: Does clause 157 carry?

By Mr. Stewart:

Q. Can we be told what is the average length of time that a bankrupt remains undischarged after the affairs of the bankrupt have been cleaned up?—A. I do not think I could assign any average time. Sometimes a bankrupt is never discharged. Quite frequently he never takes his discharge.

Mr. LESAGE: That is why there is a provision for automatic discharge in the new bill.

The CHAIRMAN: Carried. Shall clause 158 carry?

Carried.

Mr. RICHARD (*Gloucester*): What about paragraph (a)?

Mr. FLEMING: It is:

(a) being engaged in any trade or business, he has not kept proper books of account during the two years . . .

Mr. LESAGE: If he has not been engaged in business for more than one year and has not kept books for more than one year, he is guilty because it reads: "during the two years", and not "during two years"; at any moment during the two years that he should have kept books and did not.

The CHAIRMAN: Clause 159?

Mr. FLEMING: There is a point there. Mr. Lesage says it means at any moment. What is the French translation of clause 158 (1) (a), for the word "during"?

Mr. LESAGE: It is "durant".

By Mr. Fleming:

Q. That means he must keep books and must have continued to keep books throughout the entire space of the next two years preceding his bankruptcy.—A. I would think so.

Q. If that is the French version?—A. If that is not the case, then a defence of keeping books for one week would suffice.

Mr. LESAGE: I think it is ambiguous.

By Mr. Fleming:

Q. We ought to clear it up then.—A. Section 193 (1) of the present Act reads:
 during the whole or any part of the two years immediately
 preceding

That would support Mr. Fleming.

. . . . during the whole or any part of the two years

Mr. FLEMING: Suppose he slips up for half a day in keeping his books?

Mr. CANNON: Suppose you say "at any time"?

Mr. FLEMING: Suppose a man slips up for a couple of days and does not keep books for two days. Surely a slip of two days in a space of two years would be pretty drastic, would it not?

Mr. CANNON: It would not be interpreted as not keeping books, if he omitted to make entries for two days.

Mr. FLEMING: All right. Take a more advanced case. Suppose he changes his method of bookkeeping and starts a new set of books and so on, and there is a hiatus between set 1 and set 2 of let us say two days. Has the man committed an infraction of this clause?

Mr. LESAGE: But he is a man who has already been bankrupt once before. We must not forget that fact. We think when a man has been bankrupt once and has been discharged, and some people have lost money on his account,—we think we should impose upon him a very strict obligation.

Mr. FLEMING: That he should keep books 365 days of the year for twenty-four hours a day.

The CHAIRMAN: May I read this for the benefit of Mr. Lesage and Mr. Fleming:

Being engaged in any trade or business at any time during the two years immediately preceding his bankruptcy he has not kept proper books of account.

That is just changing the words around.

Mr. FLEMING: I think that is fair. That implies that his keeping of books must be reasonably continuous, and in respect of being engaged in a trade or business, it is not nearly so rigid as this form would be.

Mr. LESAGE: That is what we mean, all right.

By Mr. Stewart:

Q. Can you give us any definition of what is meant by proper books of account?—A. No, Mr. Stewart.

Q. I know, and you should know.—A. It would be a question of fact in each case.

Q. Would it include all vouchers and all documents relative to the entries in the books? Or would it be put a mere matter of books?—A. Depending on the circumstances of the case, the judge would have to look at the business carried on and say: is the bookkeeping system adequate for the ordinary purposes of this business?

Q. What do you mean by "bookkeeping system"?—A. Well, one book can be a system.

Mr. FLEMING: The emphasis is on records, keeping records so that somebody can trace his transactions.

Mr. STEWART: I have seen books which had no records to substantiate the entries in them, and the records were very important.

By Mr. Fleming:

Q. The same phrase has been in the Act for thirty years and I do not think it has given any serious difficulty.—A. No, Mr. Fleming.

Mr. STEWART: It is pretty well accepted.

The CHAIRMAN: Carried. Clause 159 "false claim, etc." carried.

Mr. CANNON: I am sorry to refer back to clause 158, but don't you think that clause 158 (1) (b) opens the door too wide? If a man ceases doing business a week before bankruptcy and then destroys his books of account, he is perfectly entitled to do so under that provision. If he is not still so engaged it is an entirely different story.

Mr. FLEMING: There is a good point there. Could we not overcome that by combining (a) and (b) and using the words, "has not kept and preserved proper books of account up to the date of"—

The CHAIRMAN: Yes, kept and preserved.

Mr. LESAGE: Up to the date.

The WITNESS: Just before any change is made, would you look at (c) in that connection?

Mr. FLEMING: But it is a question of intent.

Mr. LESAGE: Yes.

Mr. FLEMING: (c) creates the offence; unless there was no attempt to conceal; (b) deals with the simple case of preservation.

The WITNESS: The expression is in the present Act.

Mr. FLEMING: (b) is where he fails to preserve, while (c) deals with the attempt to conceal; and then the question comes up as to whether the failure to preserve was a result of the attempt to conceal or not.

Mr. LESAGE: As a matter of fact, Mr. Fleming is right. A man already bankrupt goes back into business. He has some debts, of course. If later on, in the course of a few years, he again becomes bankrupt I believe he should keep all the books pertaining to the old business for a period of years, and I think that should be mandatory.

The WITNESS: But the subsequent bankruptcy may have no relation to the business to which those books apply. For instance, he might at the end of his first bankruptcy go into merchandising and he might carry that sort of business on for five years and then close it out perfectly solvent and go into another business and in the course of another five years become bankrupt.

Mr. LESAGE: But that is after five years. I believe he should be required to keep his books for at least two years. After all, that is not such a terribly long time and it is a good protection. This man has already failed once, at least.

Mr. CANNON: What do you suggest, Mr. Lesage; combining (a) and (b)?

Mr. LESAGE: Yes, your (b) is good.

Mr. FLEMING: Keeping and preserving.

Mr. CANNON: And preserving, yes.

The CHAIRMAN: May I read the subclause as amended: (b) will come out entirely and (a) will read as follows:

being engaged in any trade or business at any time during two years immediately preceding his bankruptcy he has not kept and preserved proper books of account.

Agreed?

Agreed.

Mr. FLEMING: And that would change (c) to (b).

The CHAIRMAN: And it is a reasonable term, I would think.

Mr. BELZILE: Do you keep the word "or" there at the end?

The CHAIRMAN: Yes.

Clause 159—subclause 3 is a new part of that clause.

Mr. FULTON: I do not quite see what 3 means:

(3) Where the bankrupt enters into any transaction with any person for the purpose of obtaining a benefit or advantage to which either of them would not be entitled, he is guilty of an offence and is liable on summary conviction to imprisonment for a term not exceeding one year.

The WITNESS: The explanation is on the opposite page, Mr. Fulton, for that particular subclause.

The CHAIRMAN: Carried.

Clause 160.

Carried.

Clause 161.

Carried.

Clause 162.

Carried.

Clause 163.

Mr. FULTON: Mr. MacDonald, these new words which have been added to clause 162—"directed, authorized, condoned or participated"—are they found in the Act of any other countries? The question I had in mind was this: I think the purpose is excellent; I do not think anyone would disagree with it; but is there any chance that they are so wide that they will in fact include some member of the board of directors or something of that sort who did not actually direct, authorize, condone or participate; have you had that experience in other cases?

The WITNESS: Every officer, director or agent of a corporation; if he directs, if he authorizes, if he condones, if he participates—in each of these four situations he has been participant.

Mr. FULTON: And you mean by that participated in the commission of an offence. I would imagine, it would seem possible, that a case might arise where say a Secretary of a company not knowing the whole financial implications of a transaction participated in an official capacity by signing a document which turns out to be an offence; in other words, I wonder whether the element of intent should not be made a little more clear in that section.

The WITNESS: If he has participated—"directed, authorized, condoned or participated"—having regard particularly to those three preceding words, Mr. Fulton, I would think that "participated" would mean participated with the same degree of guilty knowledge as was required to be shown to prove the offence—they participated in the commission of an offence.

The CHAIRMAN: I see your point, Mr. Fulton. You could have a secretary-treasurer of a company who is not a shareholder, just a paid servant who does what he is told, and he is not participating in any way in any of the benefits which would flow from condoning and it might be wrong to hold him liable.

Mr. FLEMING: I think any officer, whether a shareholder, a director or not, who does know of these things ought to be liable.

Mr. FULTON: Apparently the law does not give rise to any hardship yet.

The CHAIRMAN: Shall the clause carry?

Carried.

Clause 164.

Mr. LESAGE: On 163, Mr. Chairman, who suggested subclause 4; and, what is the advantage of it?

The WITNESS: It was developed in the office, Mr. Lesage.

Mr. LESAGE: Was it at the request of the attorneys-general of the province?

The WITNESS: No, not to my knowledge.

Mr. LESAGE: It is only imposing on the one who has to prosecute the parties, and I do not see the necessity for it.

The WITNESS: Would you repeat that, please?

Mr. LESAGE: It is only imposing on the prosecuting parties—the trustee is the only one who can prosecute—it is imposing a burden on him for which I do not see the necessity.

The WITNESS: I am not sure that I just follow you.

Mr. LESAGE: I do not see the use of it.

Mr. FLEMING: Are you sending a copy of the resolution or order to the crown attorney?

Mr. LESAGE: Yes, I would say we are—a copy of the resolution or order, duly certified as a true copy thereof, together with copies of reports or statements or facts on which the order or resolution was based, to the crown attorney.

Mr. BELZILE: But the crown attorney has no jurisdiction.

Mr. LESAGE: You are right, it is no business of the crown attorney.

Mr. FLEMING: Is the crown attorney at the wrong end of the proceedings in that?

Mr. LESAGE: No, the crown attorney will come into the proceedings only if the prosecution is by indictment; that is after a commitment for trial and after preliminary hearing; unless there is a very special case in which possibly the Attorney-General will prosecute. But in my practice as crown prosecutor in Quebec I have prosecuted, I have dealt with such cases, but only at trial after committal for trial. The preliminary inquiry was always conducted by the attorney for the bankruptcy.

The CHAIRMAN: Who lays the information in your province?

Mr. LESAGE: The trustee.

The WITNESS: The practice varies from place to place and from time to time.

Mr. LESAGE: It would not apply as far as the Province of Quebec is concerned; it would be of no use there.

The CHAIRMAN: It would cover your question if we add the words, "requiring the trustee to lay the information or to send the material to the crown", and the crown then would act.

Mr. FLEMING: Is there any great burden? It does not do any offence to the crown attorney to get these papers.

The WITNESS: There is the element of criminal law connected with these offences and the administration of criminal justice is the responsibility of the provinces.

Mr. LESAGE: Yes.

The WITNESS: So there is no anomaly in sending the record to the local prosecuting officer so that he can determine whether he will undertake the responsibility for the prosecution. He may not do so. He may say, the arrangements here are that this is not covered by my instructions; but on the other hand he may take it on. I would not go, even at the present time, so far as to say that in no province or community in Canada if you take a proper case to the prosecuting officer he will not take it up.

MR. BELZILE: It looks to me as though there is a misunderstanding here with reference to the crown attorney. In the Province of Quebec the crown attorney in any district acts only upon special order from the Attorney-General. He acts only when he gets a letter of instructions directing him to proceed, and that applies to the one case only which is referred to him by the Attorney-General.

MR. LESAGE: A prosecutor has general instructions but he cannot prosecute in a case of bankruptcy, unless he has direct instructions so to do. Suppose, for instance, someone has stolen from me; the crown attorney in our province cannot take action to prosecute, he would say that that is a matter of private business between me and the thief.

MR. CANNON: And then we have the relationship of master and servant. They will not do anything which relates to your employee, you have to look after it yourself.

MR. LESAGE: Yes, we had a case like that, we went together on one; and in a case of that kind you have to prosecute yourself, the crown attorney will not take it up for you; you have to take up the case yourself.

THE WITNESS: That is what is going to happen, the creditors are going to force the trustee in a particular case to initiate proceedings.

MR. LESAGE: Who is going to instruct the trustee?

THE WITNESS: The creditors; and the trustee is going to, in pursuance of subclause (4), take the record and lay it in the office of the crown attorney. Now the crown attorney is going to do one of two things. He is going to say to the trustee "I am sorry but handling these cases is not within my retainer or my instructions," in which case nothing has been lost. But in another place the prosecuting officer may very well say: "Yes, I am a salaried prosecuting officer and that is part of my work."

MR. LESAGE: The trustee shall, in either case when he is instructed to prosecute, send a copy of the whole evidence to the attorney general. It will reach the attorney general's office; it will go through months of waiting.

THE CHAIRMAN: I have a minor suggestion that, I think, may cure this. Where a trustee is authorized or directed by the inspector or the court to initiate proceedings against any person believed to have committed an offence, he shall either initiate the said proceedings or shall send or cause to be sent all this material, and that would apply then, equally well in Quebec as in Ontario. In Ontario, he will not initiate, he will send copies; in Quebec, he will initiate, I mean the trustee will initiate proceedings.

THE WITNESS: Well now, what is going to happen there? I am afraid that the creditors are going to say "All right, we are not going to give you any such instructions because we know that the crown prosecutor in the face of that provision will tell you to prosecute, yourself. And that means the expense of this prosecution will be borne by the estate. We look upon these prosecutions as a public responsibility, we have already lost sufficient as a result of the actions of the bankrupt and we do not see why we should send good money after bad. If this is not a public responsibility we will not do it, and no action will be taken.

MR. CANNON: My experience with the attorney general's department is—if you leave the option either in the way it has been suggested by the chairman or else if we leave it as drafted now, what will happen will be that the trustee will wait for the attorney general and the attorney general will wait for the trustee and nothing will be done. Leave the responsibility on the trustee to carry out the instructions. If you give him the slightest opportunity of getting away from that responsibility, he will not do anything and the attorney general will not do anything and nothing will be done. I think the only way to get action is to leave the responsibility on the trustee to do it. Now, as has been said, if some other

body intervenes and asks the attorney general to take action and he decides to take action, all the better, but do not leave the door open for the trustee to have the work done by somebody else.

The WITNESS: But those creditors are only creditors in a bankrupt estate once. Now at this date, they have nothing to gain financially by this prosecution. They are only human and they are not going to regard it as their responsibility to vindicate the general bankruptcy law and the first question they are going to ask the trustee is "How much is this going to cost and where is the money coming from?" And the trustee has to reply "It has got to come from you." And then they are going to say "Why should we, having already lost enough out of this case, put in more money to see him prosecuted when it will bring no return to us; that should be a public and not our responsibility." And the result is going to be that there will be no prosecution.

Mr. FULTON: But I do not understand why it is not a public responsibility. It is an offence against a statute for which procedure is provided by the Criminal Code. Surely it becomes a public responsibility, automatically.

The WITNESS: Subclause (4) takes the view that it is.

Mr. LESAGE: Yes, but you know our objection is very serious and if you leave subclause (4) as it is there, knowing the policy of the attorney general's department of the province of Quebec, you might as well delete starting from clause 156 up to there. There will not be any prosecution, because the department of the attorney general in the province of Quebec feels that is not its duty to prosecute in matters of bankruptcy and if Mr. MacDonald can have Mr. Duplessis change his mind, so much the better, but it is not subclause (4) of clause 156 of the Bankruptcy Act that will lead him to change his mind.

Mr. BENNETT: Subclause (13) of clause 8 reads as follows:

The trustee may initiate such criminal proceedings as may be authorized by the creditors, the inspectors, or the court against any person believed to have committed an offence under this Act.

That is the general authority. I do not see why you have to go further than that because the procedure does vary in the various provinces and even with various crown attorneys, for instance, in Ontario some will take a summary offence and others will not.

The CHAIRMAN: Well, when our Quebec members tell us that in the province of Quebec the crown attorney will not even prosecute in regard to a cheque charge, that indicates their practice there pretty clearly, and I do not want to urge this unduly but I do think if the words are added "requiring the trustee either to initiate the proceedings himself, or to send" and so forth,—

Mr. BENNETT: If you send a resolution to a crown attorney, he may just put it in his basket.

Mr. FULTON: That is not so in any province where the responsibility of the crown attorney is to open prosecution under the Bankruptcy Act, "the trustee shall send".

Mr. LESAGE: But he will. Anyway you do not have to put it in the Act. If he really wants the man to be prosecuted by the creditors, wants the man to be prosecuted, they will instruct without subclause (4), they will instruct the trustee to deliver the evidence to the attorney general or the crown attorney. They will do that without subclause (4). In the past we did not have that subclause (4).

Mr. CANNON: To meet Mr. MacDonald's objection and it is a real one I understand, that the people who are interested in the bankruptcy might not want to put up their own money to prosecute, may we suggest this note be put in the law, that in those provinces in which it is the practice of the attorney

general not to prosecute in such cases that the Department of Justice of the federal government should take upon itself to prosecute through a lawyer in the province.

Mr. LESAGE: What about the constitution, the administration of justice? That is a provincial matter.

Mr. CANNON: Oh yes, but it is a federal matter, this bankruptcy.

The CHAIRMAN: Of course, any offence under the code is a federal offence.

Mr. FLEMING: Would Mr. MacDonald tell us what was the purpose in introducing subclause (4)? Was it to put the responsibility for pressing the prosecution on the attorney general and thereby relieve the trustee or to continue the responsibility on the trustee but simply to bring the alleged offence to the attention of the crown attorney as the legal law enforcement officer.

The WITNESS: I was in the hope that if the case were presented by the trustee to the local crown prosecutor he would regard it as part of his duties in the ordinary enforcement of the law and take it up.

Just one other word, if I may, on private prosecutions or prosecutions at the instance of trustees and creditors. Here is a list of the prosecutions in 1948: (1) accused acquitted; (2) accused fined \$50 and made restitution of \$500. Now you can see the comparison there between the criminal aspect of it and the other aspect of it. He was fined \$50. He made restitution of \$500. Now that was a very satisfactory conclusion for that estate but how far that went to discourage other persons from violating the Bankruptcy Act is another matter. (3) Accused sentenced to 30 days' imprisonment; (4) Accused sentenced to 30 days' imprisonment; (5) Proceedings abandoned in view of restitution; (6) Action discontinued on instructions of creditors. It does not say anything about restitution there but you can draw any inference you choose.

Mr. CANNON: Were these cases all private prosecutions?

The WITNESS: They were not taken up by the crown authorities, so far as I know.

Mr. LESAGE: In the province of Quebec, and elsewhere I believe, no prosecution may be abandoned, even at the stage of the preliminary hearing, without the consent of the crown, so the crown had to consent in these two cases because otherwise they could not withdraw the cases.

The WITNESS: The attitude of the crown towards the withdrawal of an information in a case it is not sponsoring as a part of the enforcement of criminal justice, is ordinarily far different from the attitude of the crown when it is prosecuting a case it has undertaken the responsibility to prosecute. Now, let me continue the enumeration: (7) Proceedings abandoned, no assets and whereabouts of accused unknown; (8) Accused forfeited bail but later was convicted on similar charges in another province.

Mr. CANNON: Let me suggest this: that if you leave subclause (4) as it is, you are practically absolving the trustee of the responsibility of doing anything other than sending the document to the attorney general's department and he will not prosecute. I think we ought to take your suggestion, Mr. Chairman, which is to say that the trustee shall institute proceedings and send the document to the attorney general's department. But if you leave it as it is I respectfully submit that you are practically liberating the trustee from the obligation of doing anything at all notwithstanding the instructions he has received from the inspector, except sending the document to the attorney general.

Mr. LESAGE: And he waits for six months?

Mr. CANNON: And he waits for six months and nothing happens.

Mr. FLEMING: What is the advantage of having it in at all?

Mr. CANNON: Well, that is it, what is the advantage of having it in at all.

Mr. HUNTER: Who is going to pay for this prosecution?

Mr. LESAGE: The estate up to the stage of the preliminary hearing and then the crown takes the case over.

Mr. HUNTER: If the prosecution is going to involve any money, the creditors would rather have the money than spend it prosecuting.

Mr. LESAGE: I am convinced of what you say, but I am telling you what happens.

The CHAIRMAN: This clause will stand while the superintendent has a chance to think it over.

The CHAIRMAN: Shall clause 164 carry?

Carried.

Clause 165?

Carried.

Mr. FULTON: That is a new clause. Will there be any limitations on the length of time?

The CHAIRMAN: No.

Clause 166?

Carried.

Clause 167?

Carried.

Clause 168?

Carried.

Clause 169?

Carried.

Mr. FLEMING: Just a moment, Mr. Chairman, what about Clause 166, sub-clause (4), the suggestion of the Toronto Board of Trade that the words "and shall have effect as if enacted by this Act" be retained?

Mr. LESAGE: Well, they are not necessary.

Mr. FLEMING: It is to give statutory effect to the rules under the Judicature Acts of most of the provinces? It is in the present Act and we are dropping it.

Mr. FULTON: It is going to be judicially noticed.

Mr. LESAGE: It has the same effect. They have complete effect if they are judicially noticed.

Mr. FULTON: Does the Act itself give them force?

Mr. LESAGE: I do not see why. It is not necessary.

Mr. HUNTER: It is considered that they are included in the words "judicially noticed." Is that correct? Is there a distinction between "judicially noticed" and being part of the law?

Mr. LESAGE: There is a distinction, yes, but there is no distinction in effect.

Mr. FLEMING: Yes, there could be a distinction in effect.

The CHAIRMAN: What do you want me to do with them? The general rule was, I believe, *mutatis mutandis*, or something of that sort?

The WITNESS: The rules are not rules establishing offences. They are procedural, and if you do not follow them you are out of court; or else the sanctions are that the bankrupt is punishable, or other persons are punishable if they do not abide by the Act and the rules. So, in view of the fact that the Governor in Council is given power to make rules for the purpose of carrying into effect the object of the Act, it seems to me that the point is covered.

By Mr. Hunter:

Q. Do you need 4 at all?—A. General rules shall be judicially noticed; yes, I think you do. I do not think the Evidence Act goes far enough to say that.

Mr. CANNON: Unless there is something which says that the general rules shall be considered as part of the Act, I do not think you have anything like that.

Mr. FULTON: If you added "shall have the force and effect as though enacted by this Act" you would have covered it completely.

By Mr. Fleming:

Q. Those words are in the Act now, and I would be chary about taking them out. So let us put them back in.—A. I suggest then that they go into subclause 4 "general rules", preceding the phrase "shall be judicially noticed".

Q. "General rules shall have effect as if enacted by this Act and shall be judicially noticed."—A. Yes.

The CHAIRMAN: "Shall be judicially noticed." Does clause 168 carry?

Carried.

Does clause 169 carry?

Carried.

Does clause 170 carry?

Carried.

Does clause 171 carry?

Mr. FLEMING: Clause 171?

The CHAIRMAN: Yes. We ought to take that out.

The WITNESS: What is that?

The CHAIRMAN: "No action against superintendent, etc., without leave of court."

By Mr. Fleming:

Q. I think there must be a mistake in the compendium. It is under 171. There seems to have been some renumbering.—A. Yes, there has been renumbering in a number of instances since that compendium was drawn up. that compendium was drawn up.

The CHAIRMAN: Does section 171 carry?

Carried.

Does section 172 carry?

Carried.

Does section 173 carry?

Carried.

Does section 174 carry?

Carried.

By Mr. Fleming:

Q. With respect to section 173, Mr. Justice Urquhart suggested specific reference be made to the present rules. I take it the intention was to preserve them until new rules are brought into effect.—A. I am quite sure that the Interpretation Act provides that where provisions are repealed and other provisions are substituted, then any rules and so forth passed under the previous provisions shall continue in force until altered under the subsequent provisions.

Q. Well, if that is the case, there is no problem.

The CHAIRMAN: Does the schedule carry?

By Mr. Fleming:

Q. With respect to clause 174, the Canadian Bankers Association had a special comment as to Newfoundland. What is the substance of it, and the reason for its rejection?—A. There is a clause which says—oh, you mean, why was it rejected?

Q. Yes. It had reference to clause 63, subclause (2).—A. The point is this: under a clause in the sixties, when a general assignment of book debts is made, if it takes place in a province where there is a registration system it is registered under that system and conforms with the provincial it is good. But in Newfoundland at the moment there is no such system and for that reason they want the clause changed so that it would not apply in Newfoundland until such legislation is passed. Well, that is rather putting the cart before the horse, because the clause says, in effect, that if there is a registration system the assignment can be registered. It is fair that it should be allowed to stand because people can get notice of it. But if there is none, then it is not fair. I think the situation will solve itself, because the Bankers Association have made representations to the Newfoundland government and it is likely that a Book Debt Assignments Act may be passed by the time this Act comes into force.

The CHAIRMAN: Does the schedule carry?

Carried.

We shall meet at 11.30 in the morning, to go over the sections which have been marked "Stand".

Canada. Banking and Commerce
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HOUSE OF COMMONS

1949

SECOND SESSION

STANDING COMMITTEE

ON

BANKING AND COMMERCE

Bill No. 149 (Letter F of the Senate) An Act Respecting
Bankruptcy

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 5

FRIDAY, DECEMBER 2, 1949

WITNESS

T. D. MacDonald, Esq., K.C., Superintendent of Bankruptcy, Department
of Justice, Ottawa.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.
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CONTROLLER OF STATIONERY
1949



ERRATA

- No. 2, page 59, line 14, after word "page" insert "61" in blank space.
- No. 3, page 114, line 34, delete "4.00" and insert "3.45".
- No. 4, page 136, line 16, delete "(h)" and substitute "(g)".
- No. 4, page 136, line 18, delete "Fr." and insert "Mr.".
- No. 4, page 150, line 2, delete "reparting" and insert "departing".
- No. 4, page 150, line 4, delete "confide" and insert "confine".
- No. 4, page 154, line 29, delete "15" and insert "XV".
- No. 4, page 159, line 3 delete "17 and 18" and insert "XVII and XVIII".



UTES OF PROCE

HOUSE OF
FRIDAY, '

RÉPORT TO THE HOUSE

FRIDAY, 2nd December, 1949.

The Standing Committee on Banking and Commerce begs leave to present the following as a

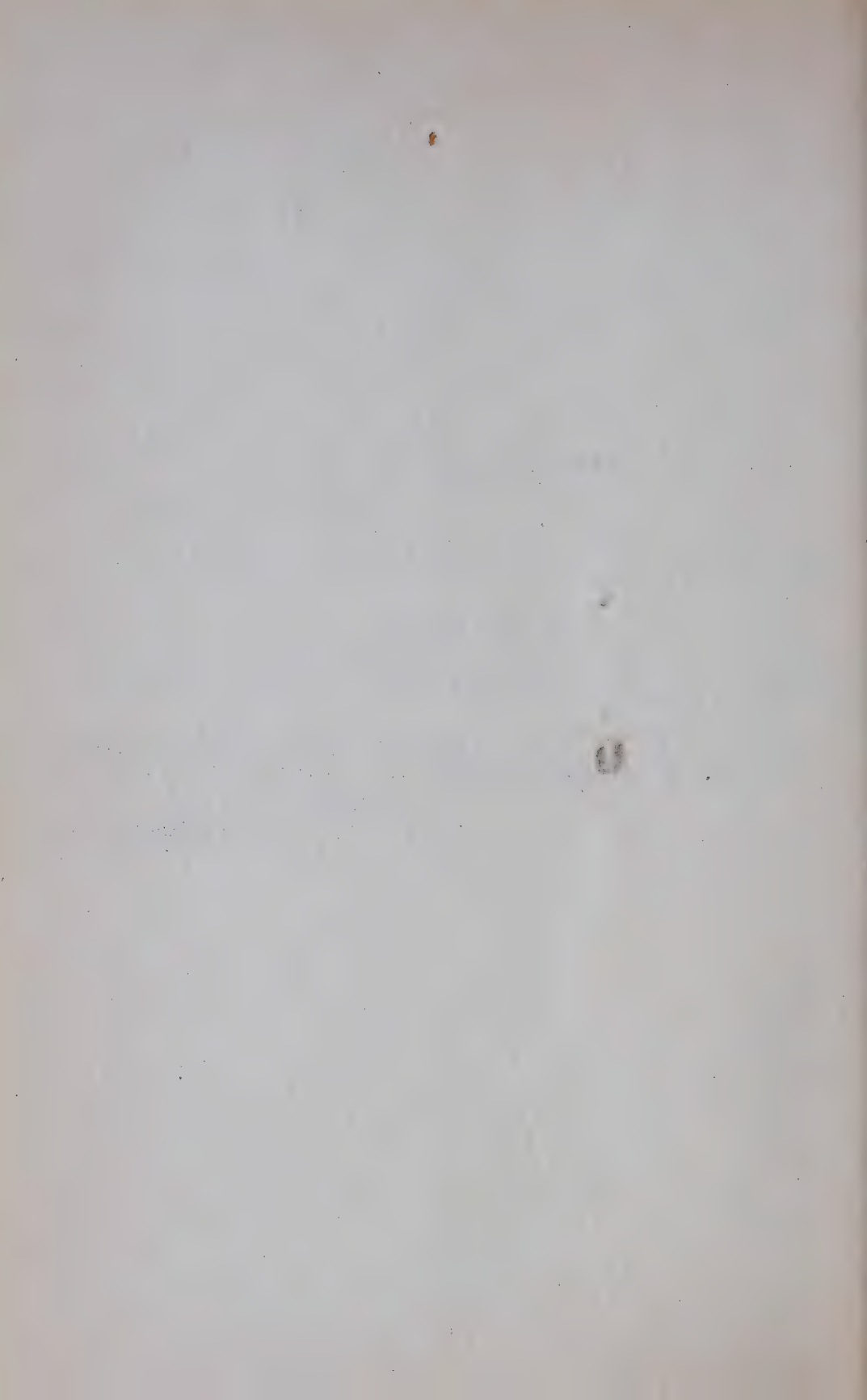
SECOND REPORT

Your Committee has considered Bill No. 149 (Letter F of the Senate), intituled: "An Act respecting Bankruptcy", and has agreed to report the said Bill, with amendments.

A copy of the minutes of proceedings and evidence is appended.

All of which is respectfully submitted.

HUGHES CLEAVER,
Chairman.



MINUTES OF PROCEEDINGS

HOUSE OF COMMONS,
FRIDAY, 2nd December, 1949

The Standing Committee on Banking and Commerce met this day at 11.30 a.m. The Vice-Chairman, Mr. Jean Lesage, presided.

Members present: Messrs. Ashbourne, Belzile, Bennett, Breithaupt, Cannon, Cleaver, Fleming, Fulford, Gour (*Russell*), Hellyer, Hunter, Isnor, Lesage, Macnaughton, Quelch, Richard (*Ottawa East*), Stewart (*Winnipeg North*).—17.

In attendance: Messrs. T. D. MacDonald, Superintendent of Bankruptcy and J. S. Larose, office of Superintendent of Bankruptcy.

Consideration resumed of Bill No. 149, An Act respecting Bankruptcy.

On Clause 10 (1) (g), on motion of Mr. Belzile,

Resolved,—That, in line 25, the word “estate” be deleted and the word “bankrupt” be substituted therefor.

Clause, as amended, agreed to.

On Clause 20, on motion of Mr. Hunter,

Resolved,—That in line 1, the following be inserted at the beginning thereof: “(1)”.

Clause, as amended, agreed to.

On Clause 52 (1), on motion of Mr. Fleming,

Resolved,—That, in line 19, the following words be deleted: “or against whom a receiving order has been made”; and in Clause 52 (1) (a), in line 23, the following words be deleted: “or receiving order”; and

On Clause 52 (2), in line 46, the following words be deleted: “or receiving order” and on page 44, line 15, after the word “bankruptcy”, the following words be deleted: “or the receiving order”.

Clause, as amended, agreed to.

On Clause 60 (2), on motion of Mr. Fulford,

Resolved,—That in line 33 the word “and” be deleted and the word “or” be substituted therefor and that in line 34, the word “passed” be deleted and the words “did not pass” be substituted therefor.

Clause, as amended, agreed to.

On Clause 64 (1), on motion of Mr. Breithaupt,

Resolved,—That, in line 17, the following words be deleted “is adjudged bankrupt on a bankruptcy petition presented” and the following substituted therefor: “becomes bankrupt” and, commencing at the end of line 19, the following words be deleted: “or if he makes an authorized assignment within three months after the date of the making, incurring, taking, paying or suffering the same”; and in line 22, after the word “bankrupt”, by deleting the words: “or under the authorized assignment”.

Clause, as amended, agreed to.

On Clause 65 (1), on motion of Mr. Bennett,

Resolved,—That, in lines 36 and 37, the following words be deleted: "or of an authorized assignment" and in line 40, the following words be deleted: "a receiving order or an authorized assignment"; and substituting, in the latter case, the word "bankruptcy" and in paragraphs (a), (b), (c) and (d), that the words "or assignor" be deleted where they occur.

Clause 65 (1), as amended, agreed to.

On 65 (Proviso), on motion of Mr. Quelch,

Resolved,—That on page 49, lines 6 and 7, the following words be deleted: "receiving order or authorized assignment" and the following substituted therefor: "bankruptcy"; and in line 14 delete the word "available" and in line 15, delete the words "or assignor".

Clause 65 (Proviso), as amended, agreed to.

On Clause 79 (3) (c), on motion of Mr. Stewart,

Resolved,—That paragraph (c) be struck out and the following be substituted therefor:

"(c) where the bankrupt is a corporation, any wholly owned subsidiary corporation or any officer, director or employee thereof".

Clause, as amended, agreed to.

Clause 95 (1) (d), on motion of Mr. Fleming,

Resolved,—That Clause 95 (1) (d) be amended, in line 17, by inserting after the word "case" the following: "together with, in the case of a travelling salesman, disbursements properly incurred by him in and about the bankrupt's business, to the extent of an additional three hundred dollars in each case, during the same period".

Clause, as amended, agreed to.

Clauses 168 and 170, on motion of Mr. Hunter,

Resolved,—That Clause 168 be re-numbered 170 and that Clause 170 be re-numbered 168, and that the explanatory notes be changed accordingly.

Clauses, as thus re-numbered, agreed to.

On Clause 25, to which the Committee reverted, at the request of Mr. Isnor, the Superintendent of Insurance made a statement.

The Committee adjourned at 1.00 p.m., to meet again this day at 3.30 p.m.

AFTERNOON SESSION

The Committee resumed at 3.30 p.m. The Chairman, Mr. Hughes Cleaver, presided.

Members present: Messrs. Ashbourne, Belzile, Breithaupt, Cleaver, Dumas, Fleming, Fulford, Hunter, Isnor, Lesage (*Vice-Chairman*), Prudham, Quelch, Richard (*Gloucester*), Stewart (*Winnipeg North*).—14.

In attendance: As at morning session.

Consideration resumed of Bill No. 149.

Mr. Fleming, by leave, brought to the attention of the Committee a submission from Canadian Credit Men's Trust Association, at the request of Messrs. Smith (*Calgary West*) and Harkness (*Calgary East*).

Clause 21(6) was reconsidered at the request of Mr. Fleming. The Superintendent of Insurance made a statement.

Mr. Fleming moved: That Clause 21(6) be amended by adding thereto after the word "order" in line 31, the words "or may adjudge the debtor a bankrupt".

Motion to amend declared lost.

The Committee agreed to consider the clauses which still stand for reconsideration.

Clause 10 carried.

Clause 12 carried.

On Clause 21(15), on motion of Mr. Lesage,

Resolved,—That Clause 21(15) be amended by adding after the word "claim" in line 1, on page 27, the words "against a partnership" and by deleting in lines 2 and 3 the following: "against all the partners of a firm"

Clause, as amended, agreed to.

On Clause 25, on motion of Mr. Fleming,

Resolved,—That Clause 25 be amended by deleting, in line 20, the word "persons" and substituting therefor the word "individuals" and by deleting, in line 21, the word "person" and substituting therefor the word "individual".

Clause, as amended, agreed to.

On Clause 25, Mr. Isnor moved: That Section 25 be amended in line 20, by inserting after the word "in" the following: "fishing," The Superintendent of Bankruptcy made a statement. The motion was carried, on division.

Clause 25, as amended, agreed to, on division.

Clause 26 carried.

Clause 36 carried.

Clause 49, on motion of Mr. Hunter,

Resolved,—That Clause 49 be amended in line 44 by inserting after the word "respect" the words "to his duties in relation".

Clause, as amended, agreed to.

Clause 52, held over at request of Mr. Beaudry, reconsidered and carried without further amendment.

Clause 107(3) carried.

Clause 117(b), on motion of Mr. Hunter,

Resolved,—That Clause 117(b) be struck out and the following substituted therefor:

"deliver to the trustee all books, records, documents, writings and papers including, without restricting the generality of the foregoing, title papers, insurance policies and tax records and returns and copies thereof, in any way relating to his property or affairs;"

Clause, as amended, agreed to.

Clause 117(j), (l) and (o) carried.

Clause 127 carried, on division.

Clause 135(1), on motion of Mr. Lesage,

Resolved,—That Clause 135(1) be amended by striking out paragraph (c) and substituting therefor the following:

"(c) any debt or liability under a maintenance or affiliation order or under an agreement for maintenance and support of a spouse or child living apart

from the bankrupt;" and that Clause 135 (1) be further amended by adding the following paragraph:

"(g) any debt or liability for goods supplied as necessities of life and the court may make such order for payment thereof as it deems just or expedient."

Clause, as amended, agreed to.

Clause 153, on motion of Mr. Lesage,

Resolved,—That Clause 153 be amended by inserting in line 2 after the word "unless" the words: "and to the extent that".

Clause, as amended, agreed to.

On clause 156(a), on motion of Mr. Hunter,

Resolved,—That Clause 156(a) be amended in line one by deleting the words "refuses or neglects" and substituting therefor the words "without reasonable cause".

Clause, as amended, agreed to.

Clause 163(4), on motion of Mr. Lesage,

Resolved,—That Clause 163(4) be amended by inserting in line 23, after the word "shall" the words "institute such proceedings and shall".

Clause, as amended, agreed to.

Clause 2 carried.

The title carried.

On motion of Mr. Lesage,

Ordered,—That the Chairman do report to the House that the Committee has considered Bill No. 149 (Letter F of the Senate), and has agreed to report the said Bill, with amendments.

On motion of Mr. Lesage, the thanks of the Committee were tendered to Mr. MacDonald, Superintendent of Bankruptcy and to Mr. Larose, of the office of the Superintendent, for their very kind and helpful co-operation.

On motion of Mr. Fleming, the Committee expressed its cordial thanks to the "Chairman for the very able way in which he has handled the proceedings" and coupled therewith mention of the Vice-Chairman and the Clerk of the Committee.

The Committee adjourned *sine die*.

T. L. McEVOY,
Clerk of the Committee.

EVIDENCE

House of Commons, December 2, 1949.

The Standing Committee on Banking and Commerce met this day at 11.30 a.m. The Vice-Chairman, Mr. Jean Lesage, presided.

The VICE-CHAIRMAN: Gentlemen, we have a quorum.

Mr. T. D. MacDonald, K.C., Superintendent of Bankruptcy, recalled:

The VICE-CHAIRMAN: I understand that Mr. MacDonald has some minor changes to suggest. Should we go over them now or take them as we go along; whichever the committee prefers.

The WITNESS: They are very short.

The VICE-CHAIRMAN: Mr. MacDonald says they are very short so perhaps we had better take them up now.

Mr. FLEMING: I hope everything will be very short.

The VICE-CHAIRMAN: We will do our best to make it short anyway. The suggestions of Mr. MacDonald are the following:

Clause 8(2)—Change marginal note to read: "Trustee to take possession and make inventory".

The WITNESS: There are a number of these, Mr. Vice-Chairman, which will be attended to by the clerk. Some are merely punctuation but I thought it well to put them on the list.

The VICE-CHAIRMAN: I thought I should bring this first one to your attention because it relates to the marginal title.

Mr. FLEMING: The marginal title or note is not a part of the clause.

The VICE-CHAIRMAN: No, but I am just mentioning that. The next one is: Clause 10(1)(g)—Word "incur" to be lower case. Word "bankrupt" to be substituted for "estate". Would you move that one, Mr. Belzile?

Mr. BELZILE: I would so move.

Mr. CANNON: I will second.

Agreed.

The VICE-CHAIRMAN: Clause 20: Clause 20—Figure (1) to be inserted before first clause.

The WITNESS: That will be found on page 23.

The VICE-CHAIRMAN: That merely completes the proper numbering of that section.

The next is Clause 26(5): Clause 26(5)—Second paragraph of explanatory note to be changed to read: "The former subsection (7) is now section 20(2)".

The WITNESS: That is opposite page 29. The explanatory note is incorrect. There was a change made just before the bill went into the Senate. The former subsection (7) was put back and that should read: "The former subsection (7) is now section 20, subsection (2)".

The VICE-CHAIRMAN: The next is clause 52, subclause (1), page 43, in line 19: Clause 52—In subclause (1) the words "or against whom a receiving order has been made" to be deleted. In subclause (1)(a) and subclause (2) the words "or receiving order" to be omitted in all three places.

The VICE-CHAIRMAN: And what is the reason for that?

The WITNESS: The reason is that under the definition "becoming a bankrupt" covers that situation. The present Act refers in every instance to persons against whom an order has been made or who makes an assignment, but in the new bill it is not necessary to do that because the expression "bankruptcy" is defined as including both of those conditions. This new section was put in after the bill was introduced in the Senate.

The VICE-CHAIRMAN: And in paragraph (a), line 23, the words "or receiving order" should be deleted for the same reason; and in subclause (2), line 46, the last words of the line, "or receiving order" should be deleted for the same reason; and on page 44 the last words on line 15, "or the receiving order" should be deleted for the same reason. Would you move that Mr. Fleming, please?

Mr. FLEMING: Yes.

Amendment agreed to.

The VICE-CHAIRMAN: Clause 60 on page 46: Clause 60(2)—Word "and" in line 33 to be changed to "or" and word "passed" in line 34 to be changed to "did not pass".

The WITNESS: I should say a word about that. It is not so casual as the others. What happened was this. When the bill was introduced in the Senate subclause (2) of clause 60 read somewhat differently. It read like this,—if the members will follow the text before them I will read it as it was when introduced in the Senate.

(2) Any settlement of property, if the settlor becomes bankrupt within five years after the date of the settlement, is void against the trustee, unless the parties claiming under the settlement can prove that the settlor was, at the time of making the settlement, able to pay all his debts without the aid of the property comprised in the settlement and that the interest of the settlor in the property passed on the execution thereof.

The feeling of the Senate committee and the way they reported it back was that the burden should be changed so as to place it upon the trustee who is contesting the settlement, and with that in mind they changed the wording to the form in which it now shows in the bill before you, that is, to this effect, that if a trustee can prove that a settlor was at the time of making the settlement unable to pay all his debts without the aid of the property contained in the settlement the settlement is void; but now, inadvertently I suppose, the concluding lines of the section were left in the affirmative. To carry out the idea that the Senate interjected into that, those lines should have been made disjunctive and placed in the negative.

The VICE-CHAIRMAN: Yes, the onus was changed. We are to change the word "and" in line 33 to "or".

The WITNESS: In the present Act the person claiming under a settlement had to prove two things affirmatively: both that the settlor was able to make the settlement without the aid of the property; and, (b), that the property passed. Now, to carry out the Senate idea, the trustee attacking the settlement should be able to succeed—if he shows that either one of these events was not the case.

Mr. FLEMING: And the change you propose there is to change this word "and" to the word "or".

The WITNESS: Yes, and the word "passed" in line 34 to "did not pass".

Mr. FULFORD: I will move the amendment, Mr. Vice-Chairman.

The VICE-CHAIRMAN: The amendment as read is moved by Mr. Fulford.

Agreed?

Agreed.

Mr. FLEMING: Just while we are on that clause I would like to ask Mr. MacDonald a question: Has anything been done in this bill to change the law with respect to concurrent knowledge?

The WITNESS: No.

Mr. FLEMING: Then the rule remains that the parties must have concurrent knowledge.

The WITNESS: The sections on that remain as they were, just changing them to conform with the new phraseology of the Bill. That point was discussed at a previous meeting and I expressed the view at that time that, perhaps, it was not possible just to say simply that there were two schools of thought; the one for concurrent intent, on the one hand, and one for unilateral intent on the other. It is more a case of the court looking at all the facts and saying that the case does or does not come within the intention of section 64; and the view I put forward at that time was that the jurisprudence was in a state of evolution, and that as more cases went to appeal, future decisions could be expected to indicate to us just what the proper rules should be.

Mr. FLEMING: But this bill will not change the present legislation on that subject?

The WITNESS: That is correct.

The VICE-CHAIRMAN: The next is clause 64 (1)—page 48—clause (1) as follows:—

Clause 64 (1)—Delete words "is adjudged bankrupt on a bankruptcy petition presented" and substitute "becomes bankrupt" in lines 17 and 18. What is the reason for that, Mr. MacDonald?

Mr. FLEMING: Just before Mr. MacDonald goes on, what words are you cutting out?

The VICE-CHAIRMAN: Deleting the words "is adjudged bankrupt on a bankruptcy petition presented".

Mr. FLEMING: You would take those words out and substitute the word "bankrupt"?

The VICE-CHAIRMAN: "Becomes bankrupt", yes.

Mr. BREITHAUP: That applies within the two-months period, is that correct?

The VICE-CHAIRMAN: Correct. What is the erason?

The WITNESS: The reason is that clauses 64 and 65 were reverted to, as has already been explained, in the Senate committee. That was done quickly, of course, and it was not noticed that some of the phraseology in 64 and 65 was referable to the phraseology in the present Act. It changes nothing in effect, it just reconciles the language in clauses 64 and 65 with the language of the new bill.

By Mr. Cannon:

Q. There is a definition of bankrupt.—A. Yes, there is a definition of bankrupt.

By Mr. Fleming:

Q. I want to make one reservation. I have this point to raise with regard to clause 21 subclause (6) which I discussed with you. There is nothing in this change or in the preceding one which will prejudice it.—A. No. None of the changes will prejudice it.

The VICE-CHAIRMAN: And the following words should also be deleted: in lines 19 to 22: "or if he makes"; that is, at the end of line 18, "or if he makes

an authorized assignment, within three months after the date of the making, incurring, taking, paying or suffering the same".

Of course, those words are not necessary any more.

By Mr. Fleming:

Q. You mean that they should all come out completely?—A. Yes, they are not necessary any more.

The VICE-CHAIRMAN: And of course in lines 22 and 23, starting from the word "or" in line 22: "or under the authorized assignment" should be deleted as well for the same reasons. Now, it would read:

64. (1) Every conveyance or transfer of property or charge thereon made, every payment made, every obligation incurred... shall, if the person making, incurring, taking, paying or suffering the same becomes bankrupt within three months after the date of the making, incurring, taking, paying or suffering the same, be deemed fraudulent and void as against the trustee in the bankruptcy.

Would you move this amendment carry, Mr. Breithaupt?

Mr. BREITHAUPT: I so move.

By the Vice-Chairman:

Q. Now, clause 65. The amendments proposed are for the same reason. That is right, is it not?—A. That is correct.

Q. In subclause (1) line 36, delete the words: "or of an authorized assignment".—A. That is correct.

Q. That is, as in lines 36 and 37 the same words recurring in lines 40 and 41: "or authorized assignment" are to be deleted.

Mr. CANNON: Should not "receiving order" come out as well?

The VICE-CHAIRMAN: Oh yes; "receiving order" that is right; and the subclause will end with a comma after the word "of".

Mr. BELZILE: What is coming out in line 40?

The VICE-CHAIRMAN: "a receiving order or an authorized assignment".

Mr. BELZILE: You mean "...shall invalidate", and then you read paragraph (a)?

The VICE-CHAIRMAN: No. Substitute "bankruptcy", or "the bankruptcy".

The WITNESS: "bankruptcy".

The VICE-CHAIRMAN: "in the case of bankruptcy".

Mr. BELZILE: "in the case of bankruptcy".

The VICE-CHAIRMAN: Now, in paragraphs (a), (b), (c), and (d), delete the words "or assignor" wherever they occur.

The WITNESS: They occur once in each paragraph.

The VICE-CHAIRMAN: They occur once each in lines 42, 44, 45 and 48. Do you move that this amendment carry, Mr. Bennett?

Mr. BENNETT: Yes, sir.

The VICE-CHAIRMAN: Carried.

By Mr. Fleming:

Q. It may be that Mr. MacDonald is satisfied that in the light of the debate in the Senate there is no change in the substance of the law being made here?—

A. Yes, that is correct, in the sense that the two clauses in the present Bill, clause 64 and clause 65 relating to these preferences are reverted to exactly with the sole exception that the wording is being corrected in the particulars mentioned so that it will be reconciled with the wording of the new Bill.

Q. You are only changing the terms. The definition of the terms leave the substantive law exactly as it has been.—A. Yes.

By the Vice-Chairman:

Q. At the top of page 49, in lines six and seven of the same clause 65, substitute the word "bankruptcy" for "receiving order or authorized assignment". Delete the words "or assignor" in line 15. And in line 14, Mr. MacDonald suggested that we delete the word "available".—A. The word "available" is used in the present Act, and it refers to an available act of bankruptcy. The present bill does not use it.

By Mr. Cannon:

Q. In which line is it?—A. In line 14.

The VICE-CHAIRMAN: "Any Act of Bankruptcy"; there is no reason for the word "available" there. Would you move that this amendment carry, Mr. Quelch?

MR. QUELCH: Yes.

The VICE-CHAIRMAN: Carried.

Now, clause 79 subclause (3) paragraph (c) page 55. Mr. MacDonald suggests that we insert at the beginning of subclause (3) paragraph (c), the following words: "where the bankrupt is a corporation".

By Mr. Breithaupt:

Q. What is the page?—A. Page 55, line 13.

Q. Thank you.—A. This is consequent to a change made in the Senate when paragraph (c) was added. The opening words of paragraph (c), should read "where the bankrupt is a corporation . . ." in order to make the sense complete, they are included in paragraph (b) as well.

By The Vice-Chairman:

Q. Would it not be simpler to merge paragraphs (b) and (c)?—A. That is a possibility.

Q. And say: "where the bankrupt is a corporation or any wholly owned subsidiary company . . ." No, that would be a corporation. The change contemplated is that the word "company" in line 12 be changed to "corporation".

MR. CANNON: That is line 13.

The VICE-CHAIRMAN: Yes, line 13 I mean.

MR. BELZILE: You would make it "corporation" instead of "company"?

The VICE-CHAIRMAN: Yes, because the word "corporation" is used elsewhere. Would you move that this amendment carry, Mr. Stewart?

MR. STEWART: Agreed.

The VICE-CHAIRMAN: Carried.

Now, clause 140 subclause (1) (e).

MR. BELZILE: I reserve the right to go back to clause 96.

The VICE-CHAIRMAN: Yes, when we have finished.

MR. MACNAUGHTON: How long will that likely take, Mr. Chairman? How long will it be before we get to clauses 94 and 95?

The VICE-CHAIRMAN: We are dealing now with minor changes which are contemplated and suggested. We shall then go back to all the sections which stood, one by one from the beginning. How many sections have we left, Mr. Clerk?

The CLERK: We have 21.

The VICE-CHAIRMAN: We are at clause 140 subclause (1) (e), and the suggestion is that it should not be underlined. There is no change.

The WITNESS: There is no change. That is right.

The VICE-CHAIRMAN: Clause 155 subclause (8), that is on page 93. The last paragraph of explanatory notes opposite on page 93 is to be changed to read: "Subsection (1) of the former section 162 has been deleted." etc.

MR. FLEMING: Subclauses (5) and (6) are to come out.

The VICE-CHAIRMAN: Yes. That is one thing which the clerk will look over. Now, clause 168.

MR. HUNTER: What was the change there? I did not get it.

MR. FLEMING: The change is just in the explanatory note.

The VICE-CHAIRMAN: The suggestion is that clause 168 be renumbered 170, and that clause 170 be renumbered 168.

The WITNESS: That is correct, because 167 and 170 relate to the same matter and should follow one another.

The VICE-CHAIRMAN: Would you so move, Mr. Hunter?

MR. HUNTER: Yes.

The VICE-CHAIRMAN: Carried.

MR. FLEMING: You are making clause 170 part of clause 167?

The VICE-CHAIRMAN: No, just changing the order.

The WITNESS: Would the clerk make a note in his record to rearrange the explanatory notes?

MR. FLEMING: Is that the law now?

The VICE-CHAIRMAN: Yes.

MR. FLEMING: Mr. Macnaughton has to leave. I am very much interested in the same clauses to which he proposes to speak and I wonder if the committee would mind taking them up before he leaves. Clause 94 has a bearing on clause 12 and the principle of clause 95.

The VICE-CHAIRMAN: Clauses 94 and 95 stood.

The CLERK: Clauses 94, 95 and 12. Clause 12 ties in there.

The VICE-CHAIRMAN: Clause 12, oh yes. Very well, gentlemen.

MR. MACNAUGHTON: It was proposed by the chairman that perhaps these suggestions could best be considered under clause 94. Briefly, the people who have asked certain members of the committee to make these representations are the Dominion Commercial Travellers' Association. I understand that while they have no quarrel with the text of the law they are concerned with the interpretation of it. The other day I suggested that one solution might be, rather than to change the law, merely to suggest to the superintendent of bankruptcy that he should issue a directive to all trustees to the effect that any preferred creditor whose claim was disallowed either in full or in part should be entitled to be heard by the trustee or by the inspector. Now, under clause 95. paragraph (d), page 63, certain persons are mentioned, for example: "clerk, servant, travelling salesman, labourer or workman for services rendered. . . ."

Those classes have priority as listed under clause 95. But in the case of a travelling salesman for example, frequently his sole support is the wage or commission which he receives from his employer, and he has nothing left when his employer becomes bankrupt. Consequently his only right is to file his claim. It is a privileged claim, it is true, and should his claim be rejected by the trustee, he then has the privilege of appealing to the court.

The VICE-CHAIRMAN: To the registrar,———

Mr. MACNAUGHTON: Yes, to the superior court, in any event, but the catch is that at this stage of the proceedings he has no money to further his claim, to pay legal fees, for instance. In other words, he is out in the cold and although he has a legal and a prior right, in fact, it does not amount to very much unless he is able to pay say \$300 legal costs to establish his claim. As a practical solution we are suggesting it might be feasible for the superintendent to send a directive to the various trustees that a person mentioned in that particular clause should have the right, once his claim is disallowed by the trustee, to go before him and demand that he rehear this particular claim thus avoiding court costs, and in the case, say, where a trustee has been very busy, and disallowed his claim, it seems to be a fairly reasonable thing to do.

The VICE-CHAIRMAN: Mr. MacDonald, could you do that?

The WITNESS: Yes, I can. I would just like to say for the record that I doubt whether at the present time any requests by such a person claiming to be a preferred creditor to a trustee for a personal interview and an opportunity to present his claim in that way would be refused, but certainly there is no difficulty or objection to my circularizing the trustees, and I should ask them in a case like that not to turn down such a claim where a personal opportunity of presenting it is requested without giving heed to that request.

The VICE-CHAIRMAN: Is that satisfactory, Mr. Macnaughton?

Mr. MACNAUGHTON: Yes.

Mr. ISNOR: I had a similar request from the Maritime Commercial Travellers' Association, which I represented on previous occasions, but I think Mr. Macnaughton has outlined it very well.

Mr. FLEMING: May I take up the theme at that point. I would like to see some changes made in clause 95, subclause 1 (d), to meet what I think is a very great need on the part of commercial travellers, who, it seems to me, under the Act or under this new clause, are not going to be treated with justice as they deserve. When the corresponding clause 121 of the present Bankruptcy Act was first enacted thirty years ago, this word "travelling salesman" was put in, and I will venture to say there were very few members of parliament who did not then think that that term covered every commercial traveller. The courts got at this clause however and they interpreted "travelling salesman" as simply a man who is working as an employee of a firm and not as including a man who may have a line or a couple of lines of different companies which he handles in an assigned territory; and that came to a head in the Ontario Court of Appeal in 1923 in the case *In re Specialty Beggs* where the court said: "If the man is master of his own movements in the territory assigned he is not a travelling salesman under this clause and he did not rank for his commissions". Now this present clause 95, subclause (1) (d), does not change in any respect the definition of "travelling salesman", so if we pass this in its present form we should understand we are not giving any preference at all to a man who is a travelling salesman and who plans his own movements in the territory assigned to him. He is not, as the courts interpret this, a travelling salesman if he is master of his own particular moves. Now, this clause uses this same language, it adopts the same words "wages, salaries, commissions or compensations". It has one limiting factor though which was not in the clause before which limited the preference to three months prior to the bankruptcy. This clause, however, goes on and adds another limit, namely \$500, which I think we should not accept. Now, if there was no reason for limitation under the old Act to \$500 I think there is very much less reason now for a limitation of \$500 because when you consider a man who is out on the road at a busy season of the year, the three months is still there but there is also a maximum of \$500, and \$500 does not go very far. It certainly does not go as far today as it has gone in the thirty years the Bankruptcy Act has been in effect. There is another aspect of this: in the

matter of expenses incurred by commercial travellers, every one of us knows how travelling and hotel expenses have increased at a terrific rate in recent years.

Mr. ISNOR: It is \$30 a day.

Mr. FLEMING: Yes, and I venture to say that the majority of commercial travellers on the road, unless they are simply employees, are advancing their own travelling expenses, and you will find many cases today where the commercial traveller has a big bill of expenses which is in a large number of cases out of his pocket, and to put a \$500 limit on everything he can claim—and the compensation now would have to include his expenses—we are going to do a very great injustice to these men who are out on the road incurring expenses. Now, I would urge that we ought to do away with that limit of \$500. In the first place, I cannot see any justification for it, especially when we are dealing with the dollars of today. As long as you have a three months' limitation surely that is enough in the case of employees and travelling salesmen and I think we ought to cut out the \$500 entirely. I would like to see us go further and establish in this clause 95, subclause (1) (d), that the compensation for which we are prepared to give a three months preference shall include "expenses of travelling in and about his employer's business during the same period."

He pays out those expenses in order to earn this kind of income, namely commission or compensation, and it seems to me there is no reason at all why his expenses paid out to earn that kind of income should not be included in the claim for which he is given a preference here, provided they are incurred in the three months' period. Now, I entirely support the point that Mr. Macnaughton has raised. I think that is reasonable and fair, that in those cases where you are dealing with employees and travelling salesmen that they should have the right of a personal hearing before the trustee before the claim is disallowed because they are not people who can afford to take appeals in most cases. But in addition to that I do suggest that we make two changes under clause 95, subclause (1) (d): eliminate the words "to the extent of \$500 in each case", and also insert the words in the first part of the subclause "including", in the case of a travelling salesman, "expenses of travelling properly incurred by him in and about his employer's business during the same period."

Mr. LESAGE: The bankrupt's business.

—At this point Mr. Cleaver resumed the chair.

Mr. HELLYER: If you took off the \$500 limit, in most cases these commercial travellers are paid a set commission, and their expenses are at their own discretion and although I can see the point that they could easily incur expenses of more than \$500 in a three months' period, it means they would come out on the short end if this clause is left in, but if you remove the \$500 limit, does not that automatically take care of the other expenses?

Mr. FLEMING: That is a matter of interpretation. In some cases there will be an agreement where the travelling expenses are in addition to the commissions. I think the proper course would be to make it quite clear that commission and compensation do include his travelling expenses. You see, it still remains for him to prove under his agreement with the bankrupt that he is entitled to be paid his expenses.

Mr. MACNAUGHTON: Just one word on that, the word "disbursements" might even be better than the word "expenses" and there seems to be some authority for that because if you refer to the compendium, page 26, under clause 95, subclause (1), (b), priority of claims, cost of administration, you will see that the Toronto Board of Trade suggested certain claims and that the Senate apparently adopted this interpretation: "the expenses include disbursements and inspectors' fees". After all, if the inspectors are entitled to charge disbursements, surely a commercial traveller ought to be able to charge his disbursements.

Mr. FLEMING: That might be an improvement on the language. I am proposing that we put in there the saving words: "properly incurred by him in and about his employer's business".

Mr. CANNON: Would you have to have something there whereby he could recover them only if under his agreement with his employers he is entitled to a reimbursement?

Mr. FLEMING: There is nothing in this that would change his contract with his employer. There is nothing here that will give him a right to more than he earned in his contract.

Mr. LESAGE: There is no doubt about that. Now, Mr. Fleming, I would be very ready to go as far with you as to include travelling expenses, but about the \$500 limit, we must think of the other creditors and we must not forget that that travelling salesman is preferred for the first \$500, and if he has a claim of over \$500, he is entitled to his share with the other creditors for the remainder of his claim.

Mr. FLEMING: My answer to that is that the people we are dealing with here are people who are working on a wage or salary or commission. Now, surely those men ought to get a preference, but why do you limit it to \$500? You have a limitation already of three months on their earnings properly earned within three months prior to the bankruptcy. Surely that limitation is enough. Now, \$500 is not an awful lot these days. You take a man who is trying to support a family and is hoping his employer will be able to weather the storm and carry on; say he is working in the shop or trying to sell; he may not be in touch with the way things are going in the office and he is going ahead incurring expense and \$500 will not go very far.

Mr. STEWART: And, in any event, he is solely dependent on his commission for income, whereas the other creditors are not.

Mr. CANNON: If your suggestion is adopted and he is entitled to travelling expenses, the \$500 is not adequate.

Mr. FLEMING: His trips may take him weeks on end, incurring heavy expenses in travelling, taking sample rooms in a hotel as well as a room for himself; it can easily be seen that \$500 is just nothing on a long trip undertaken by a travelling salesman.

Mr. ISNOR: He is not liable for income tax purposes until he receives those earnings.

Mr. STEWART: The point I tried to make is that the salesman is entirely dependent on his commissions for income whereas the other creditors are not.

Mr. FLEMING: This is his one source of income.

Mr. BELZILE: I guess it is all right.

Mr. FLEMING: If Mr. Macnaughton is satisfied on the point that he raised with the assurance that Mr. MacDonald has given him, I then move my two amendments to clause 95. (1), (d): the first would be to strike out the words in lines 16 and 17: "to the extent of \$500".

The CHAIRMAN: I would suggest perhaps that it might be better first if we heard from the superintendent of bankruptcy. This is rather a drastic amendment. Shall we hear from him, Mr. Fleming?

Mr. ISNOR: Would you care to read the first amendment so that we will understand Mr. MacDonald's explanation?

The CHAIRMAN: The first motion would be to delete the words "to the extent of \$500 in each case" at lines 16 and 17 in subclause (d) of clause 95.

Mr. CANNON: Before Mr. MacDonald gives his explanation may I say that I think that \$500 is not enough but that we should put some limitation on it, perhaps \$750 or \$1,000.

Mr. FLEMING: You have three months?

The CHAIRMAN: The three months refers only to delivery of goods.

Mr. CANNON: You must think of the other creditors.

Mr. BREITHAUP: There have been cases of padded expense accounts.

Mr. CANNON: Perhaps, Mr. Breithaupt is one who knows about such things.

Mr. FULFORD: All of us who have been in business know about them.

The CHAIRMAN: The other workmen are also included in this clause, and other officials, and the three months' delivery period you spoke of as being a restrictive period only applies to commissions of commercial travellers; it does not apply to salaries of the secretary treasurer and others.

Mr. BELZILE: Oh, I do not know.

The CHAIRMAN: Well read it.

Mr. BELZILE: "Wages, salaries, commissions or compensation of any... travelling salesmen, labourer or workman for services rendered during three months..."

The CHAIRMAN: Well, I have read the first amendment and the second amendment will be the addition of the words "including in the case of a travelling salesman disbursements properly incurred by him in or about his employer's business during the same period."

Mr. FLEMING: That amendment would follow the word "bankruptcy" in line 16?

The CHAIRMAN: I am wondering if an amendment could be drafted whereby a ceiling would remain or whereby there would be a ceiling fixed on wages and, in addition to that, a ceiling in regard to commercial travellers that would be an additional allowance for expenses? If you put the ceiling high enough to take care of the travelling salesman then you put it higher than it should be to take care of the other folk who are not entitled to travelling expenses.

Mr. FLEMING: Could you meet that situation by reason of the amount? Mr. Cannon mentioned a couple of figures. I would like to ask him whether his thought is that you would simply take the disbursements out of the \$500 limit or does he propose a higher limit to include proper disbursements?

Mr. CANNON: My suggestion was that the higher amount should include disbursements.

Mr. FLEMING: An over-all ceiling?

Mr. CANNON: Yes.

Mr. FLEMING: Then I would suggest that it be \$1,000.

The CHAIRMAN: Now that we have the problem before us perhaps Mr. MacDonald could give his comments?

The WITNESS: The limit of \$500, as Mr. Fleming remarked, comes in for the first time in this bill. I just wish to make that point clear. The second thing is that the priority given to this class of claimant has been moved up by a number of notches. Thirdly, according to the standard bankruptcy text, which I checked this morning, and it is borne out by cases, compensation is construed to include expenses of travel properly incurred by a commercial traveller in and about his employer's business. The date of that text is 1932 and I was able, before I left the office this morning, to check the cases back to 1941. That interpretation still stands, and I have someone checking back over the period from 1941 to 1932. Those words of interpretation are practically the same as the amendment suggested by Mr. Isnor.

Mr. FLEMING: May I interject that there has been a conflict of judicial interpretation on that point, and I think we should settle the question in view of that conflict.

The WITNESS: I understand that is true, but at the moment I have not come across the cases that take the opposite view.

Mr. FLEMING: There have been some cases.

The CHAIRMAN: The ruling has been that compensation, wages, salaries, commissions, are included in disbursements.

Mr. FLEMING: I am aware of a conflict of judicial decisions on the point and I think that we had better settle it here.

The WITNESS: The jurisprudence as expressed in the book is the same as the suggestion of Mr. Isnor; if there is any doubt about it then it is proper for us to clear it up. On the other point which Mr. Fleming mentioned I just happened to look at the specialty bag case and it appears that it went against the claimant on the ground that there must be some element of master and servant in the relationship. The court says that the Act does not mean that the servant must work exclusively for the debtor or be exclusively under his control, but there must be an element of master and servant in the relationship. It appears the claim in that particular case was by an independent operator who maintained his own office. He got in touch with the bag manufacturer and said in effect that he was on the road in this district and that he would like, from time to time, to place orders for the bag manufacturer, without making any commitment that he would do so. He asked what commission he would get and the bag manufacturer replied that the commission would be anything between the bag company list price to the salesman and the price at which the bags were sold. The salesman concerned, with his other lines, went out in the district and from time to time he placed orders for paper bags but he was under no obligation to work for the bag manufacturer or to place the orders.

Mr. CANNON: I think that is a good judgment. A man like that should not be covered by the Act; he should have no privilege; there is no relation of employer and employee but he is an agent.

The CHAIRMAN: Yes, a manufacturer's agent.

The WITNESS: I hope that I put the proper construction on the case, but, Mr. Fleming, I am sure you are familiar with it.

Mr. FLEMING: Yes, I am. In practice some people say that if a man has one line he comes within the clause but if he has more than one line he does not. That, I think, is not the true test. If the salesman is under orders of the bankrupt as an employee would be he comes within the clause. On the other hand, if he arranges his own time and movements in the territory and covers it in any way he wishes then, the inclination is to treat him as not coming within the clause. It is a matter of interpretation and I hope that most trustees will have regard to the remedial purposes of the act. I think it was not the intent that a man of that kind should get the benefit of the preference. It is a wide field but I think it does emphasize that we should try and meet the needs of such persons.

The CHAIRMAN: Just where do you suggest that the additional words should be inserted?

Mr. FLEMING: Where we suggest taking out the words "\$500 in each case".

Mr. LESAGE: Mr. MacDonald has not commented on the removal of the ceiling of \$500?

Mr. FLEMING: He pointed out that it appears for the first time in this bill.

The WITNESS: I do not think there is much more I can say on that; it is a question of policy as to what preference these particular classes of claimants should be given.

Mr. BENNETT: The new Act would give them a priority of \$500.

The WITNESS: And a degree of priority they didn't have before.

Mr. BENNETT: Yes.

Mr. LESAGE: And that was the reason why the ceiling was put on.

The WITNESS: And that is one reason why the ceiling was put on.

Mr. ISNOR: I have a feeling that it should be more than that. I wonder if you could tell us what the provision of the Australia Act is, if their ceiling is \$500.

The WITNESS: I am sorry I haven't got the Australia Act here, I would have to check on that at the office. The United States limit is \$600.

Mr. BENNETT: I think we should have a ceiling in this clause.

Mr. LESAGE: What would you suggest?

Mr. BENNETT: I like the chairman's suggestion. I think \$500 is a pretty good ceiling. We could leave that in the clause, but I think the travelling salesman should be allowed expenses of say \$250.

Mr. BELZILE: Don't you think for wages, salaries, commissions, disbursements, travelling expenses and so on, that a ceiling of \$500 would not be enough in relation to that limit of three months? Any man who makes less than \$200 or \$175 a month is not getting a very high salary, and if you limit it to three months at \$175 a month, that gives \$525; so we lose right there \$25 of his wages; and then if he has any travelling or out-of-pocket expenses or makes any disbursements, well, that would be just out of his own pocket and he would only have an ordinary claim as against the bankrupt estate. I think the ceiling is somewhat low.

The CHAIRMAN: What would you think of this amendment: Leave the \$500 in and insert these words at the end of "in each case": "And including in the case of a travelling salesman disbursements properly incurred by him in and about his employer's business to the extent of \$250 in each case".

Mr. FLEMING: You would have to say an additional \$250 in each case?

The WITNESS: Yes.

Mr. HELLYER: How would that apply to a case like this. I know a number of people personally who within a three month period in the proper season earn \$10,000 in commissions and in doing that they incur an out-of-pocket expense of \$4,000. That might be the case only during certain seasons of the year, but they would get no commission on the work on which they were engaged at all. Within that whole arrangement what would they get under this proposal.

The CHAIRMAN: They would get \$750. But I might answer that. That sounds like a case of real hardship, but in a case of that kind where the salesman is selling an article that was selling so very well that he could earn \$10,000 in three months, I should not think that firm is going bankrupt.

Mr. FLEMING: No.

Mr. HELLYER: I know of one firm today where the salesman made more than that but that firm just now is facing bankruptcy, it has not gone into bankruptcy, but it is in very bad financial state.

Mr. FULFORD: Don't you think the position of the travelling salesman is different from that of any others mentioned in this subclause? perhaps we should have a subclause to take care of that class of people, because a loss of that kind would not affect a servant, a clerk, a labourer or so on; it could affect people who had heavy travelling expenses.

Mr. CANNON: Selling expense would apply only in the case of travelling salesmen.

Mr. FULFORD: And the travelling salesman would be limited to \$500 in cases like that.

Mr. FLEMING: You might have an employee who drives a car; he would have car expense.

Mr. FULFORD: \$500 would certainly cover any car expense.

Mr. ISNOR: Mr. Chairman, I think your amendment is quite in order. I am inclined to think that the average commercial traveller would be reasonably covered by that—\$500 plus expenses to the extent of \$250.

Mr. CANNON: I think that is a good compromise.

The CHAIRMAN: It is at least a start in the right direction.

Mr. ISNOR: It is reasonable to suppose that a commercial traveller is going to send in his expense accounts every month, and it is reasonable to suppose that the employer is going to settle once every month.

The CHAIRMAN: Yes, and the average traveller has a drawing account in connection with expenses of this kind. What do you think of that?

Mr. FLEMING: I appreciate the willingness of the committee to meet this situation in a spirit of fairness, and I don't want to hold to a position of compromise on it. Would you consider raising that \$250 to say \$300, Mr. Chairman? I am thinking more of those men who are out on long tours.

The CHAIRMAN: I would say that is quite all right.

Mr. FLEMING: I know from experience that the expenses these men are under today are simply terrific.

Mr. BELZILE: That is all right.

The CHAIRMAN: Then Mr. Fleming moves, seconded by Mr. Isnor, that clause (b) be amended by adding the following words after the word "bankruptcy" in the 16th line of subclause (b) of clause 95; "and including in the case of a travelling salesman disbursements properly incurred by him in and about his employer's business to the extent of an additional \$300 in each case."

Mr. LESAGE: That would be after the word "case" in line 17?

Mr. CANNON: Yes.

Mr. FLEMING: Yes.

The CHAIRMAN: All right. Just a minute now, I want the reporter to get this right. Would you mind correcting the insertion; it is to be made after the word "case" in line 16, instead of after the word "bankruptcy" in line 19.

Mr. CANNON: I think to do that we should phrase it in this way: say that it is to be \$500 "together with" the amount you indicated.

The CHAIRMAN: I think you are right.

Mr. FLEMING: And I think the word "employee" should be changed to "bankrupt"; "in and about the bankrupt's business".

The CHAIRMAN: You have a note of that, Mr. MacDonald?

The WITNESS: Yes.

Mr. FLEMING: Would you read it now once more, please Mr. Chairman.

The CHAIRMAN: The motion is to insert in line 17 of subclause (b) of clause 95 after the word "case" the following words, "together with in the case of a travelling salesman disbursements properly incurred by him in and about the bankrupt's business"—

Mr. FLEMING: I think you'd better finish it and say, to the extent of \$300 in each case.

The CHAIRMAN: "—to the extent of an additional \$300 in each case."
All those in favour of the amendment will please signify?

Mr. HELLYER: Before the amendment is put, I observe that you have the words "properly incurred" there again. If it is part of his contract that he receive expense allowances, how is that going to compensate a man who provides expense money out of his own pocket?

Mr. FLEMING: That man would not get anything. He would be out the \$500.

Mr. CANNON: I did not grasp it. Have you got the words "during the same period" in the amendment?

Mr. FLEMING: I think they should come after the word "business", Mr. Chairman.

The CHAIRMAN: We already have "during the three months period".

Mr. CANNON: Yes, but so that there will not be any misunderstanding as to the exemption of the privilege for expenses, I think we should say "during the same period"; otherwise travelling salesmen might come along with bills for arrears in salary for three months, or for arrears of expense money for six months.

The CHAIRMAN: I think it would be more satisfactory if this amendment were typed out with all the recommendations which have been made. So we will stand the clause meanwhile.

By Mr. Stewart:

Q. Before we go on, there is a question I asked a while ago: could you tell me, Mr. MacDonald, when the \$600 priority was put into the American Act? In what year?—A. No, I cannot tell you right off the bat.

Q. I am still not convinced that \$500 is high enough.

Mr. ISNOR: If there is nothing before the chair, might I inquire if it is your purpose to take up clause 25 at this time?

The CHAIRMAN: Yes. Mr. Stewart, in answer to your question, I have been thinking it over, and I agree with you that the \$500 limit, having regard to today's labour market, would certainly not take care of more than two months' wages. But on the other hand, a very high priority is being given to the wage-earner, and I think that the over-all benefit which would accrue to the wage-earner from this amended clause would be very much greater than the over-all benefit which would accrue to him under the old set-up.

Mr. ISNOR: Yes, it is a substantial improvement.

Mr. FLEMING: Would the committee consider making the \$500 figure the same as the American figure of \$600, Mr. Chairman?

Mr. LESAGE: There he goes again.

Mr. FLEMING: All right; it may be that you will become a wage-earner yourself someday.

(Discussion took place off the record).

The CHAIRMAN: Mr. Fleming moved seconded by Mr. Isnor, that Clause 95, subclause (1), (d) be amended by inserting in line 17 after the word "case", the following:

together with in the case of a travelling salesman disbursements properly incurred by him in and about the bankrupt's business to the extent of an additional \$300 in each case during the same period.

All those in favour of the amendment, please signify.

Carried.

Mr. HUNTER: I still think, Mr. Chairman, you may have trouble with that word "properly". Who is going to decide that they are proper?

Mr. LESAGE: The registrar or the court.

The CHAIRMAN: Are there any further amendments to clause 95 or shall clause 95 carry?

Mr. STEWART: I would like to hear Mr. MacDonald's opinion on the suggestion I made the other day on employees' pension funds.

The WITNESS: I have had a chance to think about it, Mr. Stewart, and I think that is a matter on which my opinion is not particularly helpful. I want to give you all the assistance I possibly can on anything on which I can usefully express an opinion, but this seems to me a pure question of policy as to whether such a provision should be put in the Bankruptcy Act and it is more a question for members than it is for myself, I mean to express an opinion about. One thought I have had on it is this, that I doubt whether you could get into the Bankruptcy Act all the provisions necessary to regulate that sort of matter if you do undertake to regulate it. That is, if claims of pension funds are to be regulated, then it would appear to me that the regulating provisions would have to go further than the mere insertion of such a provision as is now under discussion, in the Bankruptcy Act because you will have to define exactly the circumstances to which this priority is going to apply. That, in itself, may be a very difficult thing to do. You have got to consider what protection is to be accorded the beneficiaries in the fund, then you have got to consider a possible distinction between the case where the fund is entirely under the control of the beneficiaries or their representatives and the case where it depends simply on an undertaking by the company which has kept complete control of the assets or what goes to make up the funds, and all those things are going to be difficult of decision and difficult to provide for and difficult even to phrase satisfactorily. Now, I know that that is not very much help, but I am afraid it is all that I can contribute to what is fundamentally a matter of policy relating to the management an disupervision of pension funds.

Mr. LESAGE: There is nothing to lead us to an amendment in this matter. It would be a very complicated thing and we would be working in the dark. I think we had better leave it at the moment. I, for one, would not try to draft anything which would cover the situation.

The CHAIRMAN: Mr. Stewart, would you mind if we gave you a little special assignment on this question? Mr. Forsyth of the income tax branch is, I believe, the officer in charge of pension funds. It occurred to me that perhaps a definition of what is meant by trust property in section 39 of the Bankruptcy Act would achieve your desired ends. Mr. Forsyth is an experienced lawyer and he might be able to make some helpful suggestion. I have every sympathy with your point but I have not been able to conjure up appropriate words which would be wide enough to accomplish the purpose but not be too wide.

Mr. STEWART: I see the difficulties and I will get in touch with Mr. Forsyth during the luncheon hour.

The CHAIRMAN: We will undertake to revert back to clause 39 if we need to. Shall clause 95 as amended carry?

Carried.

I would like to announce now that it is most important that this bill be reported to the House not later than tonight and that we would like to have a quorum promptly at 3.30. We will sit this evening if we require to do so to finish.

Mr. ISNOR: Can we clean up clause 25 now?

The CHAIRMAN: Yes, and you have the floor, Mr. Isnor.

Mr. ISNOR: I would be prepared to listen to Mr. MacDonald.

The WITNESS: As to the first part of Mr. Isnor's inquiry, whether fishermen should be included in clause 25, it is a question of policy to be determined upon a consideration of all the circumstances of the fishermen and other persons in primary industry who might also consider themselves so entitled to any advantage and that is a point upon which my opinion would be of no value to

you. As far as the mechanics of including fishermen are concerned, I can only say that in so far as I am aware fishermen could be placed in clause 25 in the same way that farmers are placed there. On the question of policy I do not feel I can contribute anything of value.

Coming to the other point, Mr. Isnor, I understood your question to be: "Is it an advantage or a disadvantage for a farmer to be relieved from the provisions of the Bankruptcy Act relating to petitions?"

My answer would be it is an advantage, because it gives the farmer an option as to whether or not he will become a bankrupt under the Act. He can go into bankruptcy voluntarily but he cannot be put into bankruptcy compulsorily. It is difficult, however, to appraise the value of this advantage. It means that he can prevent the description of "bankrupt" ever being legally applied to him. It also means that he can, when a crisis comes in his affairs, control his assets a little longer because less time would be required to put him into bankruptcy than for his creditors to proceed against him in the ordinary way. Nevertheless his creditors will catch up with him in any event. Then again, there may possibly be some dispositions of property made prior to insolvency which would be void if the Bankruptcy Act applied, but remain valid if it does not apply. The foregoing does not take into consideration the situation that obtains in the prairie provinces where a farmer, if he proposes a composition and makes default therein, is liable to the petition sections of the Bankruptcy Act like any person else.

The CHAIRMAN: May I ask one question in regard to the delay feature? Is it not true that the only delay feature would be in regard to real estate? The creditors would get judgment and proceed under execution of judgment as to all personal property, practically and apparently as though under bankruptcy, but as to real estate, that is in a different field, in the Sheriff's office on final proceedings.

The WITNESS: It would depend on the nature and the amount of the claim and the extent to which the defence if so minded are able to delay the proceedings. It seems to me that even in respect to personal property as distinct from realty there is a greater opportunity for delay in case of proceeding to judgment and execution in the ordinary way than in the case of bankruptcy proceedings.

The CHAIRMAN: Mr. Isnor, in view of the answer, do you wish to make an amendment?

Mr. ISNOR: I would like to have a little time in which to study the answer and see how it applies to a farmer in bankruptcy.

The CHAIRMAN: All right. Then shall we adjourn until 3.30 o'clock this afternoon.

Agreed.

AFTERNOON SESSION

—The committee resumed at 3.30 p.m.

T. D. MacDonald, K.C., Superintendent of Bankruptcy, recalled:

The VICE-CHAIRMAN: Shall we take the clauses that we have left? Clause 2, I think is the first one.

Mr. FLEMING: On clause 2 I was just handed by my colleagues, Mr. Smith and Mr. Harkness of Calgary, a few minutes ago a letter which they had

received from The Canadian Credit Men's Trust Association, Limited, Manitoba Division, which includes a copy of a letter written to the Minister of Justice dated November 24, 1949. I think the chairman and Mr. MacDonald have a copy of it. I would just like to read it, if I may:

The Canadian Credit Men's Trust Association Limited,
Manitoba Division,
November 24, 1949.

HONOURABLE STUART S. GARSON,
Minister of Justice,
Parliament Buildings,
Ottawa, Ontario.

HONOURABLE SIR:

Re: Bankruptcy Act, Amendment
Senate "Bill F"

The Manitoba Branch of The Canadian Credit Men's Trust Association Limited has only just received a copy of the above "Bill F" and has had the privilege of examining the representations made by the Toronto Board of Trade and The Canadian Credit Men's Trust Association.

On the whole, this new bill is an improvement on the present Act in many ways and is therefore a very acceptable move.

From the representations made by the association and the Toronto Board of Trade, however, it would appear as if a very important oversight has crept in with respect to the provisions of the proposed section 2, subsection 1, paragraph (a) which raises the amount of the debit owing to the petitioning creditor or creditors from \$500 to \$1,000.

In the provinces of Saskatchewan and Alberta, legislation is in effect which virtually denies creditors the protection provided through the courts by way of judgment and execution. For example, the Province of Saskatchewan has a provision whereby a sheriff may assemble a board of enquiry to decide as to whether an execution or chattel mortgage in his hands shall be given effect to.

Since these boards must necessarily be set up in most cases in small towns, such boards will be composed, for the most part, of friends of the debtor. The creditor has no notice and can make no representations at a hearing. Even if he were notified, the expense of proceeding to the point of enquiry would be denied all rights to take any action to enforce collection from debtors who did not wish to honour their obligations.

It is suggested that if these facts had been presented to the committee of the Senate that their action upon the request of the association that the original amount fixed should remain would have received more satisfactory consideration. We would therefore respectfully suggest that necessary steps be taken to see that the present Act is not amended in this respect.

Yours very truly,

The Canadian Credit Men's Trust Association Limited
Manitoba Division

Chairman, Legislation Committee.

I think Mr. MacDonald has considered this point, Mr. Chairman; perhaps, he would like to make a comment on it.

(Mr. Cleaver assumed the chair)

MR. LESAGE: We discussed that matter under clause 21; representations have been made by the Toronto Board of Trade to that effect. You will find that on page 12 of the compendium, and some reasons why it was left like that by the Senate.

MR. FLEMINGS: Well, I have raised the matter and perhaps the representations might be considered. As Mr. Lesage said, my point was considered earlier.

MR. LESAGE: That is just the point; they are saying in effect that we used to have that in the Bankruptcy Act but it is now under provincial legislation and the effect of it is to change the Bankruptcy Act and the result is that they fall back on the provincial legislation.

MR. HUNTER: It would be all right if you went up to the \$1,000 instead of \$500.

MR. FLEMING: They want the previous amount restored.

THE WITNESS: I am just checking up the representations made by The Canadian Credit Men's Trust Association, and they appear to be these; this is a meeting of March 10, 1949 of the Senate Committee on Banking and Commerce, reading from page 50:

At present if a debtor has committed an act of bankruptcy creditors having a claim of \$500 or over may file a petition to have the debtor adjudged bankrupt. The bill steps up this amount to \$1,000. Section 26—subsection (1) of the bill provides that an 'insolvent person' may make an involuntary assignment. The definition of "insolvent person"—section 2 (j) is one who among other things has total liabilities of not less than \$1,000. The present Act sets the figure at \$500. It seems reasonable that unless a debtor owes at least \$1,000 all told he should not be permitted to make use of The Bankruptcy Act, but it does not seem appropriate that a single creditor must have a claim of \$1,000 before he can petition his debtor into bankruptcy. The \$500 minimum for the filing of a petition has applied since The Bankruptcy Act came into force. In latter years terms of sale have been shortened and liabilities to trade creditors do not accumulate to the same extent as formerly, so there does not seem to be any good reason for increasing the amount on which a petition may be filed. Creditors are usually very loth to file petitions until every other recourse has failed, and they do so only for the purpose of bringing about an equitable distribution of the debtor's assets. Debtors who are honestly trying to pay their debts and are making any progress do not have anything to fear in this connection. It is, however, submitted that a creditor should not be deprived of the protection which The Bankruptcy Act affords him just because his debtor owes him less than \$1,000. Five-hundred dollars seems to be a reasonable minimum and it is urged that this figure be retained.

I have read that at length from this report of the Senate committee.

MR. HUNTER: I think it should be set at a reasonable amount.

THE WITNESS: Under these provisions, now in the Bankruptcy Act, which exclude from realization certain assets which would not be leviable upon under execution by provincial law, they might have exactly the same complaint, that it is open to the province to do something very similar in principle to what they are complaining about in here.

MR. HUNTER: And they do it.

THE WITNESS: And they do it. The purpose of the Bankruptcy Act is not to affect exemption from execution in individual provinces but only to provide an equitable distribution of assets, of the proceeds of such assets as are available.

Mr. HUNTER: I think we should leave it at that, \$1,000 is not an exorbitant amount.

The CHAIRMAN: Shall we finish up clause 21 while we are at it? There is another point on clause 21 which Judge Urquhart raised in regard to adjudging a debtor to be a bankrupt.

Mr. FLEMING: May I speak to a point which is in clause 21(6) which now reads:

(6) At the hearing the court shall require proof of the facts alleged in the petition and of the service of the petition, and, if satisfied with the proof, may make a receiving order.

I would like to propose that some words be added to that to bring the clause into line with the present law and also the views expressed by Mr. Justice Urquhart and others in their submissions to the Senate committee. The present law, contained in clause 4, subclause 6 of the present Act, provides that a court—this is a direct quotation—

may adjudge the debtor a bankrupt and in pursuance of the petition make an order in this Act called a receiving order.

Now, the difference between this new form and the present law is that there is no provision in the new law for adjudging the debtor a bankrupt. Now, it is important, I think, that that should be done. The view taken in the Senate committee, as I understand it, was that if a court makes a receiving order then it falls that the man is a bankrupt. A receiving order itself would not formally declare a man to be adjudged a bankrupt, as in the present law. Now, there is no reason why, in my submission—

Mr. LESAGE: I am sure if you read clause 2(c) you will agree that a person against whom a receiving order has been made is a bankrupt.

Mr. FLEMING: Yes, a bankrupt, I agree with you; but there is nothing in a receiving order that adjudges him a bankrupt.

Mr. LESAGE: That law does.

Mr. FLEMING: And I think it should be done.

Mr. LESAGE: 2(c) does.

Mr. FLEMING: It is argued that if a receiving order is made that a man is adjudged to be a bankrupt, and it falls by reason of the other provisions of the Act that he is a bankrupt; but I am arguing—and this is, as I say, in view of Mr. Justice Urquhart's representations when he appeared before the Senate Committee—that we should have a formal adjudication, a formal order that a man is adjudged a bankrupt. There are reasons for that in other legislation. The British North America Act, section 31, provides that a senator vacates his seat—"if he is adjudged bankrupt or insolvent". Now, that provision itself I think makes it desirable that we should provide that a receiving order should contain formal adjudication to that effect. The practice in England is the practice which has always been followed here in our Bankruptcy Act during the last thirty years, that there should be no receiving order without a formal adjudication that a man is a bankrupt. Now, I submit to the committee that there is no good reason for taking it out and there are good reasons for having it in; and I would urge, Mr. Chairman, that we should restore the effect contained in the present law and that the subclause should be amended accordingly.

Mr. LESAGE: I could raise an objection, but I do not insist, because after all, as a matter of fact, the present form says, the receiving order form says,—and it is further ordered—pardon me, it is ordered that the said A.B. be and he is adjudged bankrupt and the receiving order is hereby made against A.B.; so there is no change in the form of the information.

Mr. FLEMING: I do not think Mr. MacDonald has any objection, Mr. Chairman.

The WITNESS: I can state my position very shortly. I do not think it involves any distinction in principle and for that reason I am not strongly opposed to it; but to make my position clear I will have to go further and say that I am in complete accord with the views of the Senate committee; but I repeat that it is not a difference of principle.

Mr. HUNTER: It seems to me that a man is adjudged to be bankrupt when a receiving order is made; by virtue of the statutes, he is automatically considered a bankrupt. I am not pressing the point. I think it is there.

The WITNESS: May I elaborate? Just a moment, could I see the paper, Mr. Fleming? The expression "adjudged bankrupt" comes from the English Act. There is not the same need for it in the Canadian Act because under the English Act there were two separate operations, the making of a receiving order and the adjudication of bankruptcy. So you cannot just draw a parallel between the two Acts. Under the present Bankruptcy Act, the expression is used and certain consequences are attached to it. But under the new bill the same consequences attach to the state of bankruptcy. So that as far as the bill itself is concerned, nothing suffers from the failure to use those words. That is, all the following consequences of the bill come into play because a receiving order has been made or because an assignment has been made. It is true that the British North America Act for instance provides that a senator vacate his seat if he be adjudged bankrupt or insolvent or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter. So it would appear to me that it is sufficiently wide to cover the case of an assignor or a person against whom a receiving order has been made under the new bill. These are general words, the purpose of which is to pick up any situation to which they were intended to apply. For example, there are no words in the present Act which apply the expression "adjudged bankrupt" in the case of a person who makes an assignment. So that a possible objection could have been raised since 1867 as to the present law. That is to say, if the objection be that the failure to put in the words "adjudged bankrupt" does not permit the Bankruptcy Act to tie in with the British North America Act, then I say the same difficulty has been there since the beginning in respect to assignments, because the Canadian Act never applied the words "adjudged bankrupt" in the case of an assignment.

Mr. HUNTER: Are you talking about something entirely theoretical?

Mr. LESAGE: Is it not your principle that the fewer words you have in the law the better it is?

Mr. FLEMING: No. I think the principle here is that you are making a change and there is no sensible reason for that change.

Mr. LESAGE: There is no change.

Mr. FLEMING: You are leaving it to further inference and other provisions in the Act that certain incidents follow from the making of a receiving order. But even though the state of bankruptcy be deemed to follow the making of a receiving order, there is nothing in this bill which says that the debtor is adjudged bankrupt. Moreover, the present form of receiving order under the present Act does contain those specific words. So I can see no good reason for departing from it. In fact I can see some reason why it might be desirable in the future to have such a provision included. Moreover, certain opinions which are worth very much more than my own—I cite Mr. Justice Urrquhart,—are very strong about it. I refer to those who are administering this Act all the time. They feel quite strongly about it. There cannot be any objection to it.

The WITNESS: Just to conclude: I would like to read from the volume entitled "Bankruptcy in Canada by Duncan and Reilley". This is the standard bankruptcy text. I shall read a passage which I had not noticed before or I

would have cited it. "It is the adjudication" He is speaking there about the English Act: "It is the adjudication and not the receiving order which vests in the trustee the property of the debtor. Under the Bankruptcy Act on the other hand, it is the receiving order which vests the property of the debtor in the trustee, and the adjudication does little more than attach the label of bankrupt to the debtor."

Mr. FLEMING: May I rejoin that there is no authority contained in Duncan and Reilley for the statement you have just read, and that it is purely the personal opinion of the authors. There is no foot-note authority for the statement in the volume itself.

The CHAIRMAN: Could we not resolve our differences in this way, by following in subclause (6) the actual terms of the receiving order which has been called to the attention of the committee by Mr. Lesage,—form No. 1-3 of the Consolidated Rules and Forms dated 1945, and simply add the words at the end of paragraph (6) as follows:

. . . . if satisfied with the proof may make a receiving order declaring the debtor to be a bankrupt.

Mr. FLEMING: You had better say "adjudging".

The CHAIRMAN: Yes, "adjudging the debtor to be a bankrupt".

Mr. FLEMING: I propose that we put those words in.

The CHAIRMAN: I notice that Mr. Justice Urquhart referred to the fact that under the Criminal Code there are certainly offences for which a bankrupt becomes liable should he commit them.

Mr. HUNTER: I think it is unnecessary, but I have no objection.

Mr. LESAGE: I think it is unnecessary. Even if there are some offences in the Criminal Code, there would be a reference in them to the bankrupt.

The WITNESS: No, there are not any.

By Mr. Lesage:

Q. Clause (2) (c): First it says: "a man against whom a receiving order has been made".—A. Sections 417 and 418 of the Criminal Code do not mention bankruptcy.

Mr. BENNETT: If the court makes a receiving order, would not that adjudge the debtor a bankrupt?

Mr. FLEMING: It would at the present time under the present Act. But the new bill is not going to contain a formal adjudication of bankruptcy.

Mr. BENNETT: But if the court does make a receiving order, then you may go to clause (2) (c), where you will find that a receiving order means a bankruptcy.

Mr. FLEMING: Well, there are those whose opinions are entitled to very great weight who think otherwise, and they include Mr. Justice Urquhart. He is one of them.

The CHAIRMAN: If these express words be added in this subclause would you not have to go all through the Act and add them here and there, otherwise there might be an omission in the other clauses, or some implication might arise? You get that point very clearly, I take it?

By Mr. Fleming:

Q. I would like to know how that is going to work out. Could we have an example?—A. Suppose you add to subclause (6) of clause 21 on page 25 the words:

and make an adjudication of bankruptcy.

Q. Adjudge a debtor a bankrupt?—A. All right, “adjudge a debtor a bankrupt”. Now, there is no such provision in the case of an assignment and there never has been under our Act. It seems to me that you immediately raise an implication in connection with the British North America Act that it catches the case where there is a petition and receiving order but it does not catch the case where there is only an assignment. I do not think that is the intention.

Q. I understand your point, Mr. MacDonald, but I am afraid I do not agree with it. Here we are simply proposing to preserve the present section, to preserve the law as it has been.

MR. LESAGE: I think the committee is quite familiar now with the question. Could it not now be put?

MR. FLEMING: Very well. I move that clause 21 subclause (6) be amended by inserting in line 30, after the word “may” the following words:

adjudge the debtor a bankrupt and

That is the end of the quote. That will bring the present clause into conformity with the existing law. Subsection (6) would now read:

may adjudge the debtor a bankrupt and in pursuance to a petition make an order under this Act called a receiving order.

The CHAIRMAN: Are you ready for the question? is there any further discussion? all those in favour? All those opposed? the motion is lost. Are there any other questions on clause 21? If not, it is carried. What is the next clause? I believe this point has been covered but I want to make sure it is in our record. Mr. Lesage moves, seconded by Mr. Fleming that clause 21 subclause 15 be amended by adding the words after the word “claim,” in line one:

against a partnership,

And by striking out the words in lines 2 and 3:

against all the partners of a firm.

So that subclause 15 would read:

Any creditor whose claim against a partnership is sufficient to entitle him to present a bankruptcy petition may present a petition against any one or more partners of the firm without including the others.

Does the amendment carry?

Carried.

MR. FLEMING: I am so anxious to support anything which Mr. Lesage suggests, after the strong support he gave to my last amendment, that I would second it with pleasure.

The CHAIRMAN: Clause 26 subclause (6).

MR. LESAGE: Have we carried clause (2) yet?

MR. BENNETT: Do you not think that “creditor” or “creditors” should go in subclause (6)? Do you not remember our discussion on that point?

The CHAIRMAN: “any creditor or creditors”.

MR. BENNETT: Yes.

MR. LESAGE: No, we decided it would be better not to put it in.

The CHAIRMAN: I believe it was decided that it was covered in the interpretation clause.

MR. BENNETT: Oh, I was not here.

The CHAIRMAN: What is the next one?

MR. LESAGE: We did not carry clause (2), Mr. Chairman.

The CHAIRMAN: Not yet. We are going to come to it last. Now, clause 26 subclause (6).

What is the question on that, Mr. MacDonald?

The WITNESS: The question is whether it should be raised.

Mr. LESAGE: It was understood that Mr. MacDonald would give to the committee some figures as to the proportion of the failures in 1948 in which amount the realized assets over what is mentioned there did not exceed \$500.

The WITNESS: That is correct.

Mr. FLEMING: The view of some, Mr. Chairman, was that if there is merit in the procedure in small estates that we might as well extend it to estates of more than \$500. Mr. MacDonald's expressed view was that this is an experiment and we have to start the experiment with these small amounts.

The WITNESS: In 1948 the total number of bankruptcies closed was 450; 175 of those fell into the first group of \$500 or under, and that figure relates to the realized assets, including secured creditors.—

Mr. BELZILE: How many are there in the other category from \$500 to \$1,000?

Mr. LESAGE: Mr. MacDonald has not finished, there are others that are to be added.

The WITNESS:—Including secured creditors claims that were handled by the trustees. That is, 175 cases out of the 450 for that year at the minimum would come under the summary administration provision, and the actual number would be larger because it would take in an undeterminable number of estates which, according to these figures, are grouped in the next classification of \$500 to \$1,000, the number of estates in that classification being 43, and some of those 43, I cannot tell you how many, would fall into the first group, so out of 450 estates for that year 175 plus would be the number that would come under the summary administration provision, which is a substantial proportion.

Mr. HUNTER: I support that increase to \$1,000 but I would like to hear more about it from the opposition.

Mr. FLEMING: Mr. MacDonald told us the other day when we were discussing this clause that in the light of the way the experiment succeeds he thinks the range of the estates to which the summary procedure should apply should be widened, and he will recommend accordingly.

The CHAIRMAN: Yes, and it is taking care under present conditions of about forty per cent of the total.

Mr. FLEMING: Yes, I think that percentage is surprising to us all.

The CHAIRMAN: Shall the clause carry?

Carried.

We are considering clause 36.

Mr. ISNOR: I wonder if Mr. MacDonald would tell us whether he receives a record of all bankruptcy cases or only those dealt with by trustees.

The WITNESS: Only those dealt with by trustees, Mr. Isnor, I mean only those that are dealt with under the Act. I should put it that way perhaps. It is possible for an estate to start off under the Act to be a bankruptcy and to be dropped at some preliminary stage and not to reach a trustee. Now, we would get a record of that estate but we would not get records of bankruptcies that occur outside the Act and about which nothing is done under the Act.

Mr. ISNOR: I asked that question because it would add largely to the number 175 in that lower class. A large number of trust companies would not, of course, handle small estates; there is no money in it for them.

The CHAIRMAN: Now, we are on clause 36. Some members were a little concerned about the wording of this clause. Members of committee will have

had plenty of time by now to read it over. Is the clause in its present form, Mr. MacDonald, satisfactory to you?

The WITNESS: Mr. Chairman, I do not think I informed Mr. Isnor as I should have done. Mr. Isnor, this is another way of putting what I said; all bankruptcies that are such by reference to the terms of the Bankruptcy Act come to our attention. The case I meant that did not come to our attention was the case of the man who is popularly called a bankrupt because he cannot pay his debts and he just goes out of business. No creditor does anything about it, and of course, there is no way you could get figures.

Mr. ISNOR: That is what I had in mind. Of course, I am not a lawyer and the chairman passed over my question very quickly; I appreciate that point too.

The CHAIRMAN: Mr. Isnor, I hope on reconsideration you do not feel so badly because I want to assure you there was no intention of that kind.

Mr. ISNOR: Thank you.

The CHAIRMAN: Clause 36?

Mr. LESAGE: Could Mr. MacDonald say whether he is satisfied with the wording?

The WITNESS: Yes. This is Mr. Macdonnell's point and since he is not here, perhaps I could read into the record what I was going to reply to him anyway and then he will see it. He raised a question as to what could be done under expression "injustice" in clause 36, subclause 1, and particularly he wanted to know whether if the debtor came into new assets after the composition was made, whether the composition could be set aside then on the ground that there was an injustice. The jurisprudence is to the contrary. I have been unable by reference to Duncan and Reilly to find any jurisprudence on the meaning of the word "injustice" in clause 36, previously section 19 of the Act. Duncan and Reilley does, however, contain a passage at page 169 the effect of which seems to be that unless the composition or scheme of arrangement so provides expressly or by necessary implication, after-acquired property is not brought within the scheme or the composition. The passage is as follows:

Distinction between composition and receiving order as regards property affected. A composition or scheme of arrangement, though approved by the court and so by statute binding on all the creditors, depends on a contract between the parties. It thus differs, so far as property affected is concerned, from a receiving order. Under a composition or scheme of arrangement, after-acquired property is not brought in unless the contract says so. In the absence of such a provision and of words indicating an intent to define exactly the property to be taken by the trustee, the property of the debtor divisible among his creditors will, it is considered, be the property to which the debtor was entitled at the date of the approval of the scheme by the court when it became completely operative. Such property would probably include a reversionary interest whether vested or contingent, but not a mere expectancy.

The CHAIRMAN: Thank you, Mr. MacDonald.

Shall clause 36 carry?

Carried.

We are now on clause 49. I remember the question was raised in regard to clause 49 as to the protection given to creditors under the Conditional Sales Act in Ontario and in similar unregistered credit transactions.

Mr. FLEMING: Yes, that was in the compendium. I remember the view expressed by the Toronto Board of Trade, among others, that it should not simply be left to depend on registration alone. The Canadian Manufacturers'

Association suggested that the word "unregistered" be deleted and replaced by the words "not registered or not protected against creditors under the law of the province". I think there is ample reason for that, having regard to the possibility of establishing validity even without registration in the cases you have mentioned. The words that they propose would certainly take account amply of the provincial legislation. I think that the present form does not completely take care of the provincial legislation. It takes account only of one of the grounds of establishing liability of the lien or charge.

Mr. LESAGE: I am afraid of that. I will give you an example of what happens in Quebec. Suppose that I go to a store and buy a stove on a conditional sale. There is no registration of the lien but if I am a tenant, the vendor is protected by sending a notice by registered letter to my landlord. There is no registration and yet there would be protection, a certain amount of protection, under the laws of the province.

Mr. FLEMING: I would think that the form suggested would adequately take account of that situation. The clause as it stands now would not take account of the validity of such a lien.

Mr. LESAGE: I do not want the trustee to be personally responsible because he could have no knowledge of the sending of such notice to the landlord by registered mail.

Mr. FLEMING: Well, Mr. Chairman, I think we discussed the point adequately. We had a long discussion on it the other day. If Mr. Lesage will move this amendment, I will second it.

Mr. LESAGE: There is no amendment.

The CHAIRMAN: I believe Mr. MacDonald feels that the trustee would be guilty of negligence if he ignored the provisions of the Conditional Sales Act in Ontario; that is if there was a piece of equipment there with a name plate on it giving the name and address of the manufacturer and he did not send out a notice to that manufacturer before selling that article, he would be guilty of negligence, would he not?

Mr. BELZILE: There is no such provision in the province of Quebec as you have in the Conditional Sales Act in Ontario.

Mr. FLEMING: Therefore, the proposed amendment would adequately take care of that because it says "not registered or not protected against creditors under the law of the province".

Mr. LESAGE: There is protection for creditors to a certain extent under our laws but the trustee cannot be aware of the situation and we cannot therefore hold him responsible.

Mr. FLEMING: Well, I stand by my offer.

The CHAIRMAN: If we cannot persuade Mr. Lesage to move Mr. Fleming's amendment, shall the clause carry?

Mr. HUNTER: I think the words "with respect to property" are vague. Does the act mean negligence with respect to his dealing with the property?

The CHAIRMAN: Negligence with respect to the sale of the property—for instance a piece of equipment with the name plate on it, complying with the Ontario Conditional Sales Act, giving the name and address of the manufacturer—and a trustee in Ontario seeing that would immediately notify the firm. Should he not do so he would be guilty of negligence.

Mr. HUNTER: Then let us say that.

The CHAIRMAN: That is what this act says.

Mr. HUNTER: I do not think so.

Mr. BELZILE: Property is defined.

Mr. FLEMING: We are troubled by the words "with respect".

Mr. HUNTER: I think it is with respect to disposal.

The CHAIRMAN: Would you prefer the old wording? Would you prefer "with respect to the same"?

Mr. FLEMING: No, there must be a participle in there.

Mr. LESAGE: What if the trustee has goods on hand and allows them to perish by negligence?

Mr. HUNTER: What are you trying to accomplish? Does this mean negligence with respect to seizure and disposal or is it negligence with respect to the actual storing and handling of the property? I would judge from the first part of it that it is with respect to seizure and disposal.

The WITNESS: I think it would cover both.

Mr. FLEMING: I think there is a good deal of weight to be given to Mr. Hunter's argument. There is nothing to tie the words "negligence with respect" to the property. Could we meet the situation by saying "negligence with respect to his duties in relation to the property?"

Mr. HUNTER: Yes, that might do it.

The CHAIRMAN: Mr. Hunter moves, and Mr. Fleming seconds, that clause 49 be amended by adding the following words after the word "respect" in line 44—"to his duties in relation".

Shall the clause carry with that amendment?

Carried.

Clauses 52 and 53. Does anyone present know what Mr. Beaudry has in mind here.

The WITNESS: He had a proposal to make for clearing up a point in further favour of the copyright owner, but I do not recall the exact nature of it.

Mr. LESAGE: It is something to the effect that if an author has had an advance of money from a publisher the author should not be asked to give back all of the money to the estate should the publisher become bankrupt. The author of the book would have worked on the book and would have a contract with the publisher. The publisher would have advanced him a certain amount of money against the publication of the book and Mr. Beaudry does not want the author to have to pay back the publisher, if he goes bankrupt, a certain amount of the advance which has been given.

Mr. FLEMING: How can that relate to any of clause 50?

Mr. LESAGE: It relates to clause 52.

Mr. FLEMING: Oh, I beg your pardon.

The WITNESS: My idea is that the point involves subclause (a) where it says that if the work covered by copyright has not been published and put on the market at the time of the bankruptcy and no expense has been incurred in connection therewith, then it goes back to the author. Mr. Beaudry's idea was that there was some expense which should not be counted there, and notwithstanding which it should go back to the author, but he and I had only a casual conversation on the matter.

Mr. LESAGE: Mr. Beaudry mentioned something about \$500. The author himself incurs some expense when dealing with the publisher. Apparently the author always incurs some expense and his time is precious and he should keep at least \$500 of the advance payment.

The WITNESS: That was the point perhaps.

The CHAIRMAN: We might leave the clause stand until the very last moment in case Mr. Beaudry can be contacted.

Mr. LESAGE: He will not be here.

The CHAIRMAN: We come now to clause 107 (3).

Mr. HUNTER: What was the objection here?

Mr. LESAGE: It concerned the personal liability of the trustee.

The WITNESS: It was a question of whether the old section should be reverted to as it lays down definite rules of time and amounts, or whether the present flexibility should be adopted.

Mr. HUNTER: I think the objection was that the major creditors might disregard some of the smaller creditors. I do not know how practical Mr. Fleming's suggestion is—I am not saying that it is impractical; I just do not know.

Mr. LESAGE: The superintendent of bankruptcy looks after these matters very well.

Mr. FLEMING: I cannot say that I have seen any instance of it.

Mr. LESAGE: I believe that we shall not see it as long as the superintendent of bankruptcy keeps his eye on every bankruptcy as he does now.

The CHAIRMAN: Shall the clause carry?

Carried.

Clause 117 (b), (j), (1), and (0).

Mr. LESAGE: This was the question of income tax returns.

Mr. FLEMING: Mr. MacDonald was going to draft an amendment.

The WITNESS: I have a note here but I do not know whether you were to do the drafting or whether I was to do it. I have not done it but it can be done in short order.

deliver to the trustee all books, documents, writings, papers, insurance policies,—

Mr. FLEMING: “—income tax assessments and copies of income tax returns—”.

Mr. BELZILE: Are those not papers, documents, writings, and records?

Mr. LESAGE: They are instruments of torture.

Mr. FLEMING: They are not records.

Mr. BELZILE: They are writings.

Mr. FLEMING: You do not leave out insurance policies, and you might also argue that a title deed was a paper.

Mr. ISNOR: I think income tax returns are records. During the standard profit period you were asked for your records and with “records” they were able to arrive at the position of your standard profit.

Mr. HUNTER: It seems to me that there are already two unnecessary items here; one is insurance policies and the other is title deeds.

The CHAIRMAN: Mr. MacDonald is willing that the words go in but he feels that their insertion would weaken the clause. In view of that thought do you feel like pressing for it, Mr. Fleming?

Mr. FLEMING: Does Mr. MacDonald entertain a similar fear because of the words insurance policies and title deeds? They are specific things; they are not general matters like books, records, documents, writings, and papers.

Mr. ISNOR: Insurance policies are quite another item. You may not treat them in the same way as records.

Mr. FLEMING: I think, Mr. Chairman, with all respect to Mr. MacDonald, that that is something that ought to be in there. It is in the realm of doubt. Different members of the committee may have different degrees of doubt about it but certainly we are all in agreement that the bankrupt should deliver to

the trustee his income tax statements and copies of his income tax returns; and there is only doubt, it seems to me, as to whether these things are covered by the pertinent subclause, and if so whether we ought to put it in. It could come in after the word "papers"—income tax statements and copies of income tax returns. I move it and Mr. Lesage seconds it.

The CHAIRMAN: Mr. MacDonald suggests that the wording should be, "including papers relating to tax records and returns".

Mr. FLEMING: All right.

The WITNESS: Might I make a further suggestion, just for comparison; if you turn the paragraph around so it will read like this—

The CHAIRMAN: Don't go too fast.

The WITNESS: "Deliver to the trustee, all books, records, documents, title deeds, writings, insurance policies and papers, including without prejudice to the generality of the foregoing, papers relating to tax records and returns."

Mr. HUNTER: "Without limiting the generality of the foregoing"—why not include in those designated things, books, records, documents, insurance policies and so on, these tax records and returns.

The CHAIRMAN: Mr. Hunter, would you please write that out. What is the next subclause, (j)?

Mr. FLEMING: What was wrong with (j)? Oh yes, the question was as to who was required. It says "as required"; and the question was, by whom, who has the right to require?

Mr. LESAGE: Anyone who has the right. It is as easy as that.

The CHAIRMAN: Well then, strike out the words "as required".

Mr. FLEMING: It would not have any meaning then.

Mr. LESAGE: Who is to be required to do it?

Mr. FLEMING: Yes, who would have the right to requirement if we realize it in its present form?

Mr. BELZILE: Oh, the trustee, the inspector, the creditors, the courts.

The WITNESS: Yes, beginning at clause 120 with the official receiver.

Mr. FLEMING: What you mean then is this, is it not, Mr. MacDonald? Submitting himself for examination under oath with respect to his private affairs as may be required in accordance with the provisions of this Act; isn't that it?

Mr. LESAGE: How could it be otherwise, Mr. Fleming?

The CHAIRMAN: I do not think you could improve on the wording as it is very much. Shall it carry? The other clause provides as to who has the right to examine him, and this clause simply puts the obligation on the bankrupt to submit to examination.

Carried.

The CHAIRMAN: Next is (l) and (o).

Mr. FLEMING: That is the same thing.

Mr. HUNTER: I would suggest this: "deliver to the trustee all books, records, documents, writings and papers relating to his property or affairs, and without in any way limiting the generality of the foregoing to deliver all title papers, insurance policies, income tax statements and returns."

The CHAIRMAN: Would you pass that to me, please? What was the point with regard to (l) and (o)?

Mr. FLEMING: (l) was as may be required. What was (o)?

The CLERK: The suggestion was that they should be joined.

Mr. FLEMING: Oh yes, this is linking it up with the one that went before, is it not?

Mr. LESAGE: Yes, to add (o) to (l).

The CHAIRMAN: That adds nothing to the meaning of the Act, it merely streamlines it.

Mr. LESAGE: Yes, that was the proposition, Mr. Chairman.

The CHAIRMAN: As this legislation was initiated in the Senate, should we make any unnecessary amendments?

Mr. HUNTER: But the point is it may be required—by whom?

Mr. FLEMING: That is the same point as in (j).

Mr. LESAGE: And he wanted to link (o) with (l).

The CHAIRMAN: Carried.

Mr. FLEMING: What about (b) now.

The CHAIRMAN: We will have that in a minute. The next is clause 127. That is marked carried.

Mr. FLEMING: No, I think we held that one over. There was some difference of opinion in principle as to whether we should provide in the receiving order that an assignment is automatic, or something along that line.

Mr. LESAGE: And also to provide for the costs of the trustee. If I recall what Mr. MacDonald told us the rule would be that from now on the fee would be fixed for the discharge in favour of the trustee. I discussed it with Mr. Cannon and he wanted to be sure that this fee would be paid by the bankrupt himself and not out of the estate. That is the point there—the cost of the discharge being paid by the bankrupt and not out of the moneys of the estate.

Mr. BELZILE: The point raised by Mr. Cannon was that paragraph 4 stated that a court may require.

Mr. HUNTER: You could easily have a deposit or guarantee given; the bankrupt might be in a position to deposit money, or he might cover it by a bond.

The CHAIRMAN: Can we not properly leave that to the discretion of the court?

Mr. LESAGE: It is quite all right if you do that; but I want to be sure that the cost of the discharge would not be paid by the estate.

Mr. ASHBOURNE: Can a man carry on business again once he has been discharged from bankruptcy?

The WITNESS: Yes, after he is discharged.

The CHAIRMAN: While you are thinking that point over may I now submit this amendment to 117 (b): Moved by Mr. Fleming, seconded by Mr. Hunter:

Deliver to the trustee all books, records, documents, writings and papers, including, without restricting the generality of the foregoing, title papers, insurance policies, tax records and returns in any way relating to his property or affairs.

Carried.

Now, coming to this question of costs in subclause 4 of 127.

Mr. LESAGE: By 127, Mr. MacDonald, the cost of the discharge is not going to be paid out of the money of the estate; am I correct in that interpretation of it?

The WITNESS: It will be under the present clause.

Mr. LESAGE: By the present clause. Then, if we are going to have these costs paid by the debtor we will have to make an amendment.

The WITNESS: Yes.

Mr. LESAGE: And then the application of a trustee to proceed with the discharge—

The WITNESS: That will have to be amended too.

Mr. HUNTER: Could we do it this way: require the bankrupt to deposit such security by way of moneys, sureties or bond as may be satisfactory to the trustee?

The WITNESS: If he has not got it or cannot give the guarantee, you cannot have, I think, a compulsory discharge, or the kind of discharge contemplated by clause 127 when it is coming out of the estate. I am not saying that by way of argument at the moment for continuing the clause; but that is just the fact. If you change the provision whereby it comes out of the estate, you must change the principle of the clause.

By Mr. Lesage:

Q. Then you will have to fix the fee of the trustee by the rules.—A. In either event.

Q. By the rules.

By Mr. Hunter:

Q. Why do you say that you cannot?—A. Well, what makes section 127 go is the fact that the fee of the trustee for the discharge comes out of the estate.

Q. Oh, I see.

By Mr. Ashbourne:

Q. Could you give us some idea as to the number or proportion of bankrupts who obtain their discharge?—A. Yes, we can do that for you in just a moment.

By the Chairman:

Q. And what is the cost you are talking about?—A. We estimated last day that it might be \$75 but I believe Mr. Lesage thought that was a little low.

Mr. BENNETT: Are there many more clauses remaining?

The CHAIRMAN: Not very many, but they will take a little time. Under this subclause (4) the amount we are talking about is \$75 and we have to weigh the benefits on one side offered through the cost of the automatic application of the discharge coming out of the estate.

Mr. BELZILE: I think it is all right. I think this automatic feature should deserve consideration. The judge may decide that the required sums should be paid by the debtor. By subclause (4) we get an automatic way of paying for a discharge and then if the trustee thinks that no such funds are available he may apply to the court.

The CHAIRMAN: Should we carry the clause?

Mr. BELZILE: Yes.

Carried.

Mr. FLEMING: I have doubts about the wisdom of this provision concerning automatic application. I think it may end up with a considerable number of these applications cluttering the business of the court. It seems to me that if a bankrupt is not sufficiently interested in applying for his own discharge, there is no reason why the trustee should be put to the trouble of performing that service for him. I am not going to move an amendment, but I hope I shall be proven to be wrong through experience. I think this is just a lot of mollycoddling a bankrupt.

The CHAIRMAN: Carried, on division.

Mr. ASHBOURNE: Do you not think it would add a certain degree of finality to the thing? That was the observation I would make.

The CHAIRMAN: Clause 135 (1) (c).

Mr. FLEMING: The question of affiliation. Mr. MacDonald was going to draft an amendment I think.

The CHAIRMAN: Any debt or liability for maintenance for the support of a wife or child.

Mr. LESAGE: There was an amendment I believe.

The CHAIRMAN: Whether under private contract or court order.

Mr. FLEMING: I think you should mention an affiliation order specifically as well.

The CHAIRMAN: Either that or put in a definition to mean that a child shall mean an adopted child as well as a natural child.

By Mr. Isnor:

Q. Is it not recognized that way these days?—A. Not generally.

Mr. HUNTER: What is the point?

Mr. ISNOR: A child other than one which has been mentioned. Suppose I adopt a child, is he recognized?

Mr. BELZILE: If you adopt a child in court, that child has all the right of a legal or ordinary child.

Mr. FLEMING: The difficulty is not that of an adopted child here, but rather of a child whose father is not the husband of his mother.

By Mr. Lesage:

Q. A common law wife, or something like that.—A. "Any debt or liability under a maintenance or affiliation order or under a contract". Suppose we say "agreement", or under an agreement for maintenance and support of a spouse or child living apart from the bankrupt". A spouse might conceivably be the wife.

The CHAIRMAN: Is that agreed?

Carried.

Mr. LESAGE: Now, as far as grocers and butchers and suppliers of necessities of life are concerned in the same clause 135, we have suggested that subclause (d) of clause 147 (1) of the old Act be restored. But the chairman had an objection. He said that at times it happened that doctors' and hospital bills might be incurred amounting to thousands of dollars. I have here an amendment which would distinguish between goods and services. I refer on the page opposite page 84, to section 147 (1) (d) of the present Act and follow "from any debt or liability"

Mr. FLEMING: You do not want the words "from any debt".

Mr. LESAGE: No. I shall add something.

from any debt or liability

and then I add:

for goods supplied as necessities of life, and the court may make such order for payment thereof as it deems just and expedient.

Mr. BENNETT: Mr. Fleming means in the new bill.

Mr. LESAGE: Oh yes, of course.

Mr. HUNTER: Would it not be a little too broad? It would include coal, for instance?

Mr. LESAGE: Yes, goods supplied as necessities of life.

Mr. FLEMING: You are retaining part of the provisions of the present Act?

Mr. LESAGE: Yes, excluding "services" but keeping "goods".

Mr. FLEMING: I think that is a good idea.

The CHAIRMAN: The amendment is moved by Mr. Lesage and seconded by Mr. Fleming that clause 135 be amended by adding thereto subclause (f) "any debt or liability for goods supplied as necessities of life".

Mr. LESAGE: "And the court may make such order for payment thereof as it deems just and expedient".

The CHAIRMAN: I do not understand those last words.

Mr. FLEMING: Oh, they are in the present Act.

Mr. LESAGE: Yes, they are in the present Act.

Mr. FLEMING: If a bankrupt apply for his discharge, the order apart from such provision would not make any provision for the debt or liability for goods supplied as necessities such as payment to the butcher, baker and the candlestick maker. They would have to start proceedings all over again in order to get a judgment against the debtor. Now you have the parties before the court and the judge in bankruptcy can say: "All right. Before I give you your order of discharge from bankruptcy I want you to pay your butcher, baker and the candlestick maker and so on. I am going to order you to pay those debts, for example, at the rate of \$15 a month."

Mr. LESAGE: That is exactly what they do.

The CHAIRMAN: Will you read it again?

Mr. LESAGE: They are already recited, Mr. Chairman, on the page opposite page 84.

Mr. FLEMING: At the very bottom of the page, paragraph (d).

The CHAIRMAN: "And the court may make such order for payment thereof as it deems just and expedient".

Mr. HUNTER: I have never seen that done.

Mr. FLEMING: I do not think it has been done very often in Toronto.

Mr. LESAGE: Oh, I have done it myself for a creditor, for a grocer.

The CHAIRMAN: What is the next clause to be dealt with.

The CLERK: The next one is clause 153.

Mr. BENNETT: You will notice there was already a paragraph (f) there. You stated the new paragraph would be (f).

The CHAIRMAN: Oh, it will be (g). Thank you. Now, you say clause 153?

The CLERK: Yes, clause 153.

Mr. FLEMING: I think we agreed on an amendment to this effect: that the appeal was to operate to the extent to which the judge ordered in a case where he ordered a stay in part but not as to all.

The WITNESS: I was under the impression that the committee had settled the words. This is clause 153?

The CHAIRMAN: I had it marked as carried.

The WITNESS: "An appeal to the Supreme Court of Canada shall not operate as a stay of proceedings unless and to the extent that the judge who grants leave to appeal so orders".

Mr. LESAGE: It was left over not so much on that account but because it had not been agreed upon. Mr. Cannon asked Mr. MacDonald what was the situation as far as security for costs was concerned under the new wording.

Mr. ISNOR: I would move, seconded by Mr. Ashbourne that clause 25 be amended in the twentieth line by inserting before the word "farming" the word "fishing".

The CHAIRMAN: Are you ready for the question?

Mr. FLEMING: That comes in after the word "solely".

The CHAIRMAN: Yes.

Mr. HUNTER: How does it read now?

Mr. FLEMING: "in fishing, in farming".

Mr. BENNETT: I do not like to oppose Mr. Isnor but I do not know why he should pick out fishermen.

Mr. ISNOR: Why pick out the farmer?

Mr. FLEMING: I do not recall the discussion on this before. Could Mr. MacDonald give us a short comment on it?

The WITNESS: The only comment that I made this morning was to say, Mr. Fleming, that I was of the opinion that it was a slight advantage to the farmer to be in clause 25; an advantage very difficult of appraisal; that as to the fisherman he could be put in as far as the mechanics go but as to the policy of putting him in that was not a matter in which I could be of very much assistance.

Mr. BENNETT: For instance, there are fairly large firms engaged in fishing, who operate three and four tugs.

Mr. HUNTER: Some of them operate dozens of boats.

Mr. BENNETT: That is right. They might be exempt.

Mr. HUNTER: I mean if you made one exception and it is a major exception—I should think we should be very chary of broadening it. I would like to insert "lawyers".

The CHAIRMAN: I do not like to do this but I think we had better let this clause stand.

Clause 156 (a), can we agree on that subclause?

Mr. LESAGE: It was proposed that the words in line 2, "refuses, or neglects" would be replaced by "without reasonable cause".

The CHAIRMAN: "fails without reasonable cause" and subclause (d), do we agree on "makes a false entry or knowingly makes an omission".

Mr. LESAGE: When we let subclause (a) stand, it was because it refers to clause 117 which was left over.

Mr. FLEMING: I thought we had disposed of all these points.

Mr. LESAGE: That is what we did; we disposed of all except the amendments we are mentioning now, that is right.

The CHAIRMAN: Then clause 156 is carried as amended?

Carried.

The CHAIRMAN: Clause 163, subclause 4, that is the attorney-general's clause.

Mr. LESAGE: I move that subclause 4 be deleted.

Mr. FLEMING: Is Mr. MacDonald going to be very disappointed if that course is followed?

The WITNESS: I understood that you had an alternative suggestion, Mr. Lesage?

Mr. LESAGE: I have two.

The WITNESS: Which was to insert a disjunctive?

Mr. LESAGE: One, I would say in line 23 "the trustee shall initiate such proceedings and send or cause" and my other suggestion would be "or send or cause".

The WITNESS: I think the "or" ties it in more fittingly with clause 8, sub-clause 13, on page 12.

Mr. LESAGE: Mr. Cannon strongly believes that if we put "or" there certain trustees will say "I have sent it to the attorney general's department and am waiting for the answer."

Mr. FLEMING: And he will have satisfied the clause?

Mr. LESAGE: Yes, that is the objection to it.

Mr. HUNTER: I think it is quite a good objection.

Mr. LESAGE: And if we put "and", then my objection is we are putting a burden on the trustee who has to proceed all by himself to do something which is not necessary.

Mr. FLEMING: All he is doing is sending copies.

Mr. HUNTER: No, he institutes proceedings.

Mr. LESAGE: I mean the additional burden.

Mr. FLEMING: Well, what is that?

Mr. LESAGE: Well, you have to pay for that.

The CHAIRMAN: Then, give him the option and let him take a choice.

Mr. LESAGE: Yes, but the objection then is—

The CHAIRMAN: You cannot have it both ways. "Shall initiate and shall send".

Mr. LESAGE: I do not like it.

Mr. FLEMING: Will Mr. MacDonald come up with the answer that is going to solve all our problems?

The WITNESS: What is the suggestion, Mr. Lesage? "Where a trustee is authorized or directed by the creditors, the inspectors or the courts to initiate proceedings against any person believed to have committed an offence, the trustee shall send or cause to be sent" . . .

Mr. LESAGE: "shall initiate such proceedings" and then should it be "and" or "or"? That is why my first proposition was to delete the subclause entirely because then we will not have the problem and, moreover, we do not have it in the present Act.

Mr. BENNETT: May I ask a question, Mr. Chairman? If the proceedings are initiated by way of indictment the trustee lays the information, and then the crown attorney carries on, or if the crown attorney does not think he has a good case, he will not carry on. Is that it?

Mr. LESAGE: In the province of Quebec he will not carry on.

Mr. BENNETT: Why should he lay the information if the trustee thinks he has not a good case?

Mr. LESAGE: Because he is instructed by the court, or the inspectors he has to proceed.

Mr. HUNTER: All he has to do is to lay an information or a complaint.

Mr. LESAGE: I am safe in saying that when he is instructed to lay an information against anybody or take an indictment, he has been receiving advice from an attorney,—that is the usual practice.

The CHAIRMAN: Would you please make up your mind?

Mr. LESAGE: Mr. MacDonald is studying the matter.

The WITNESS: Of course, I favour it as it is.

Mr. LESAGE: Well I told you that as it is—

Mr. BENNETT: I do not see the object of the clause in view of clause 8, sub-clause 13.

Mr. LESAGE: That is why I wanted to delete it.

Mr. BELZILE: The real thing is to have the attorney general or the crown take up the proceedings.

Mr. BENNETT: They should do that anyway.

Mr. BELZILE: They will not do it in the province of Quebec.

Mr. FLEMING: Would this meet the situation where you are not wanting to relieve the trustee of proceedings that have been directed by the creditors, by the inspectors, or by the court to be taken. Could we not change these words that where the trustee has initiated proceedings in accordance with the authorization of the creditors, inspectors or the court against any person believed to have committed an offence, the trustee shall do so and that where the trustee has been directed to take proceedings, he will take them, and when he has initiated them, he will send copies of the papers to the crown attorney.

Mr. LESAGE: That would fit our position but it would not fit the case when the crown attorney is ready to go on from the beginning.

Mr. HUNTER: Surely you have to furnish the crown attorney with all this information anyway. What is he going to base his charge on if he doesn't get it?

The CHAIRMAN: Mr. MacDonald has reached a decision. He will accept the "and" amendment.

Mr. LESAGE: So in either case the trustee will have to send copies of the resolution.

The CHAIRMAN: And the amendment will be in line 23 after the word trustee "shall initiate such proceedings and".

Mr. LESAGE: So in every case where the trustee is authorized to initiate proceedings he will have to go on and then he sends a copy to the crown attorney or attorney general.

Mr. BENNETT: Should not clause 8, subclause 13 be amended to read that the trustee "shall"? It says "may". That is on page 12.

The WITNESS: I think that is only set out there as completing, as rounding out, the duties of the trustee. In this clause we are getting into the actual mechanics.

Mr. BENNETT: I agree except that subclause 10 above says "the trustee shall," subclause 11 says "may" and subclause 13 says "may" the heading of clause 8 reads "Duties and Powers of Trustees".

Mr. LESAGE: I will give you an example, Mr. Bennett. Suppose that the inspectors are together, and as happened in a case in Montreal recently—it was a case of conspiracy or something arising out of a bankruptcy, and the inspectors looked at the records and decided that the bankrupt should be prosecuted. It was a very important matter and they directed the trustee to report in an interview to one of the crown attorneys. The crown attorney reports to the attorney general and says "we must proceed in this" and they decide to proceed right away. Now, the inspectors do not have to authorize the trustee to take these criminal proceedings. If you know the distinction I am making here, it is covered by the last subclause of clause 163 by "and". There is a difference between power to do and doing something and the obligation of doing it. You give him the power to do it in subclause 13 of clause (8), and we place on him by clause 163(4) the obligation of doing it when he is so directed by the creditors, the court or the inspectors.

The CHAIRMAN: Are you content, Mr. Bennett?

Mr. BENNETT: All right.

The CHAIRMAN: Mr. Isnor would you move your amendment now?

Mr. FLEMING: I think Mr. Isnor's amendment raises a larger question which concerns the word "persons" in clause 25. The definition of "person" in

clause 2, subclause (m) includes a partnership, an unincorporated association, a corporation, and so forth. I presume there might be, theoretically, corporations engaged exclusively in the business of farming or tilling the soil. There could also be corporations engaged in fishing. I do not think Mr. Isnor's intention is that corporations engaged in fishing should come within the provision of this clause. It seems to me there are no reasons for including corporations engaged in farming. I think we ought to change the word "person" to make it quite clear that it applies to natural persons.

Mr. LESAGE: "Individuals".

Mr. FLEMING: If we could change the word "persons" to "individuals" I would be quite prepared to support Mr. Isnor's amendment.

Mr. ISNOR: Your thought would be to change "persons" to "individuals".

Mr. FLEMING: Yes, wherever it appears in this clause.

Mr. RICHARD (*Gloucester*): Would a corporation engage in farming?

Mr. FLEMING: Theoretically a corporation could be engaged exclusively in farming.

Mr. RICHARD (*Gloucester*): Would they fall within this clause then?

Mr. FLEMING: Yes.

Mr. RICHARD (*Gloucester*): Do you think that it should be the intention to include them?

Mr. FLEMING: I think that regardless of whether we adopt Mr. Isnor's amendment or not we should change the word "persons" to "individuals".

Mr. ISNOR: I think the last few lines make it quite clear where it says "who does not on his own account carry on business".

The CHAIRMAN: Shall we hear from the superintendent in regard to this clause?

The WITNESS: I have pretty well exhausted what I can say about this. Personally, if fishing were put in, it would have to be limited very carefully to the case of an individual engaged in fishing. I do not remember any cases, looking at the practical aspect, where fishermen have been placed in bankruptcy. The collective memory of the office is that the records do not disclose a single case in the last five years.

Mr. ISNOR: Then, summing up, you could say that there will be no danger as a result of the amendment.

Mr. HUNTER: What about logging, timbering, and mining?

Mr. RICHARD (*Gloucester*): Why do you make an exception for the farmer and exclude everybody else? I think the proper thing would be to say farmers, fishermen, and workmen whose net income does not exceed \$2,500. Then you are not treating the farmer in a preferential way. The farmer's income may be unlimited and yet he has a priority over workmen.

Mr. HUNTER: I do not know the basic reason for the farmers being exempted?

Mr. BELZILE: Because he is otherwise protected by the Farmers' Creditors' Arrangement Act.

Mr. FLEMING: There was a specific reason given in the earlier discussion, but it was mentioned that we have the Farmers' Creditors' Arrangement Act.

The CHAIRMAN: The farmer is dependent upon weather conditions, crop conditions, and all that sort of thing.

Mr. RICHARD (*Gloucester*): So is the fishermen; but he braves far more weather than does the farmer.

The CHAIRMAN: You are quite right about that but if you do not leave the farm to the farmer he never makes a recovery.

Mr. RICHARD (*Gloucester*): We have been courting the farmer for too long.

The CHAIRMAN: There are no records of fishermen having been thrown into bankruptcy. I have fishermen in my riding and I know something about the inland fishing industry. A little port in my riding ships over \$100,000 worth of fish each year to the United States.

Mr. RICHARD (*Gloucester*): What do you think of my suggestion of "farmer, fishermen, and workmen, whose income does not exceed \$2,500—"

Mr. FLEMING: You have it there now?

Mr. RICHARD (*Gloucester*): We have workmen but the farmer is not included?

The CHAIRMAN: Well I shall put the amendment.

Mr. FLEMING: Do you mind if I first put my amendment. I think you need it to get support for Mr. Isnor's motion. If Mr. MacDonald does not see any reason to the contrary, I would move that we change the word "persons" in line 20 to "individuals" and in line 21 change the word "person" to "individual".

Mr. RICHARD (*Gloucester*): As I look at the point the farmer earns his living by working and I do not see why he should have an unlimited income and not be petitioned into bankruptcy. A workman, if he earns over \$2,500 may be petitioned, and also that applies to the fisherman.

The CHAIRMAN: All those in favour of the amendment striking out the word "persons" in line 20 and substituting in lieu therefor the word "individuals", and striking out the word "person" in line 21 and substituting in lieu therefor the word "individual".

Carried.

Mr. HUNTER: I wonder if I could get the reason for the farmer being exempted. Somebody said that it was because of the Farmers' Creditors' Arrangement Act but that is not so. The Farmers' Creditors' Arrangement Act was passed long after the Bankruptcy Act. Was it decided to exempt the farmer out of sympathy for him and the perils of his task?

The WITNESS: I could not find any enlightenment on the matter.

Mr. FLEMING: Perhaps one of the reasons was that he was not originally included in the groups which pay income tax?

The CHAIRMAN: In the absence of any information on the point I am going to put Mr. Isnor's amendment. It is moved by Mr. Isnor, seconded by Mr. Ashbourne, that clause 25 be amended by adding the word "fishing" after the word "in" in line 20. The amended clause would read "engaged solely in fishing, farming, or the tillage of the soil—". Shall the amendment carry?

Carried.

Shall Clause 2 carry?

Carried.

Shall the title carry?

Carried.

Shall I report the bill?

Carried.

Mr. BELZILE: I have just one comment to make. There is a special provision in the Bank Act to the effect that the Bank Act shall be revised every ten years. Has such provision ever been considered with respect to the Bankruptcy Act?

The WITNESS: No.

Mr. BELZILE: Would it be of any advantage?

The WITNESS: No.

The CHAIRMAN: The conditions are not comparable.

Mr. LESAGE: We should thank Mr. MacDonald and Mr. Larose for their very kind co-operation.

Mr. FLEMING: And we should thank the chairman of the committee for the able way in which he has handled the proceedings. Those remarks should also apply to the vice-chairman and to the clerk.

APPENDIX H.

Extract from Minutes of the Proceedings of the Senate of Canada, Tuesday, 6th December, 1949, at page 296:

Pursuant to the Order of the Day, the Senate proceeded to the consideration of the amendments made by the House of Commons to the Bill (F), intituled: "An Act respecting Bankruptcy".

The said amendments were concurred in.

Ordered. That a message be sent to the House of Commons to acquaint that House that the Senate have agreed to the amendments made by the House of Commons to this Bill, without any amendment.

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SESSION 1950

HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

Including verbatim evidence taken in relation to

- Bill No. 268 (Letter W-8 of the Senate), "An Act to amend the Foreign Insurance Companies Act, 1932".
- Bill No. 269 (Letter X-8 of the Senate), "An Act to amend The Canadian and British Insurance Companies Act, 1932".
- Bill No. 307 (Letter F-10 of the Senate), "An Act to amend the Trust Companies Act".
- Bill No. 308 (Letter J-10 of the Senate), "An Act to amend the Loan Companies Act".

TUESDAY, MAY 2, 1950

THURSDAY, MAY 25, 1950

WEDNESDAY, JUNE 14, 1950

THURSDAY, JUNE 15, 1950

TUESDAY, JUNE 20, 1950

WITNESSES:

- Mr. R. W. Warwick and Mr. K. R. MacGregor, respectively Superintendent and Associate Superintendent of Insurance;
- Mr. D. K. MacTavish, Counsel for the Canadian Life Insurance Officers Association;
- Mr. J. E. Coyne, Deputy Governor of the Bank of Canada;
- Mr. L. G. Goodenough, Counsel for the Dominion Mortgage and Investment Association, and also representing the Trust Companies Association of Ontario.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.B.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1950



ORDERS OF REFERENCE

TUESDAY, February 28, 1950.

Resolved,—That the following members do compose the Standing Committee on Banking and Commerce:

Messrs.:

Adamson	Fournier (<i>Maisonneuve-Rosemont</i>)	Macnaughton
Argue	Fraser	Macdonnell (<i>Greenwood</i>)
Arsenault	Fulford	Maybank
Ashbourne	Fulton	Picard
Beaudry	Gibson (<i>Comox-Alberni</i>)	Prudham
Belzile	Gour (<i>Russell</i>)	Quelch
Benidickson	Harkness	Richard (<i>Gloucester</i>)
Bennett	Harris (<i>Danforth</i>)	Richard (<i>Ottawa East</i>)
Blackmore	Hellyer	Riley
Bradette	Helme	Sinclair
Breithaupt	Hunter	Smith (<i>Queens-Shelburne</i>)
Brooks	Isnor	Smith (<i>York North</i>)
Cannon	Laing	Smith (<i>Moose Mountain</i>)
Cleaver	Lesage	Stewart (<i>Winnipeg North</i>)
Côté (<i>St-Jean-Iberville-Napierville</i>)	Low	Thatcher
Dumas	Maltais	Weaver
Fleming		White (<i>Hastings-Peterborough</i>)—50.

(Quorum 15)

Ordered,—That the Standing Committee on Banking and Commerce be empowered to examine and inquire into all such matters and things as may be referred to them by the House; and to report from time to time their observations and opinions thereon; with power to send for persons, papers and records.

TUESDAY, April 18, 1950.

Ordered,—That the following bill be referred to the said Committee:—Bill No. 55 (Letter E of the Senate), intituled: "An Act respecting The Limit-holders' Mutual Insurance Company."

FRIDAY, April 21, 1950.

Ordered,—That the name of Mr. Byrne be substituted for that of Mr. Laing on the said Committee.

TUESDAY, May 2, 1950.

Ordered,—That the quorum of the said Committee be reduced from 15 to 10 members and that paragraph (d), Section (1) of Standing Order 63 be suspended in relation thereto.

Ordered,—That the said Committee be granted leave to sit while the House is sitting.

TUESDAY, May 16, 1950.

Ordered,—That the following Bills be referred to the said Committee:—

Bill No. 205 (Letter K-4 of the Senate), intituled: "An Act to incorporate United Security Insurance Company".

Bill No. 207 (Letter K-5 of the Senate), intituled: "An Act to incorporate The Canadian Commerce Insurance Company".

Bill No. 208 (Letter A-6 of the Senate), intituled: "An Act to incorporate Saskatchewan Mutual Insurance Company".

MONDAY, June 12, 1950.

Ordered,—That the following Bills be referred to the said Committee, viz:

Bill No. 268 (Letter W-8 of the Senate), intituled: "An Act to amend The Foreign Insurance Companies Act, 1932".

Bill No. 269 (Letter X-8 of the Senate), intituled "An Act to amend The Canadian and British Insurance Companies Act, 1932".

WEDNESDAY, June 14, 1950.

Ordered,—That the said Committee be empowered to print from day to day 500 copies in English and 200 copies in French of its Minutes of Proceedings and Evidence.

THURSDAY, June 15, 1950.

Ordered,—That the following Bills be referred to the said Committee, viz:

Bill No. 307 (Letter F-10 of the Senate), intituled: "An Act to amend the Trust Companies Act".

Bill No. 308 (Letter J-10 of the Senate), intituled: "An Act to amend the Loan Companies Act".

Attest.

LEON J. RAYMOND,
Clerk of the House.

MINUTES OF PROCEEDINGS

HOUSE OF COMMONS,

TUESDAY, May 2, 1950.

The Standing Committee on Banking and Commerce met at 10.30 o'clock a.m. Mr. Hughes Cleaver, Chairman, presided.

Members present: Messrs. Ashbourne, Breithaupt, Cannon, Cleaver, Dumas, Helme, Low, Macdonnell (*Greenwood*), Macnaughton, Quelch, Richard (*Ottawa East*), Smith (*Queens-Shelburne*), Smith (*North York*), Smith (*Moose Mountain*), Weaver.

In attendance: Mr. R. W. Warwick, Superintendent of Insurance.

On motion of Mr. Macnaughton:

Resolved: That the Committee recommend that its quorum be reduced from 15 to 10 members.

On motion of Mr. Dumas:

Resolved: That the Committee ask permission to sit while the House is sitting.

The Committee then considered clause by clause Bill No. 55 (Letter E of the Senate): "An Act respecting Limitholders' Mutual Insurance Company."

Mr. Cannon, on behalf of Mr. Lesage explained the bill and Mr. Warwick, Superintendent of Insurance, Department of Finance was questioned in relation to the said bill.

The preamble, Sections 1 and 2 and the Title were severally adopted and the Bill ordered to be reported to the House.

At 10.55 o'clock a.m. the Committee adjourned to the call of the Chair.

(*No verbatim report of evidence taken.*)

THURSDAY, May 25, 1950.

The Standing Committee on Banking and Commerce met at 10:30 o'clock a.m. Mr. Cleaver, the Chairman, presided.

Members present: Messrs. Adamson, Ashbourne, Cleaver, Dumas, Fleming, Fraser, Fulford, Gour (*Russell*), Hellyer, Hunter, Lesage, Quelch, Sinclair, Smith (*York North*), Smith (*Moose Mountain*).

In attendance: Mr. Dickey, M.P., Sponsor of Bill No. 205, and Mr. H. A. Aylen, K.C., Parliamentary Agent; Mr. Merrill Desbrisay, K.C., (Toronto), and Mr. J. B. Beckett, respectively Solicitor and Parliamentary Agent for Bill No. 207; Mr. R. C. Merriam acting for Mr. D. K. MacTavish, K.C., Parliamentary Agent, *re:* Bill No. 208; and Mr. R. W. Warwick, Sup't of Insurance.

The following Bills were severally considered clause by clause and adopted without amendment:

Bill No. 205 (Letter K-4 of the Senate), An Act to incorporate United Security Company.

Bill No. 207 (Letter K-5 of the Senate), An Act to incorporate The Canadian Commerce Insurance Company.

Bill No. 208 (Letter A-6 of the Senate), An Act to incorporate Saskatchewan Mutual Insurance Company.

At 11:00 o'clock a.m., the Committee adjourned to the call of the Chair.

(*No verbatim report of evidence taken.*)

WEDNESDAY, June 14, 1950.

The Standing Committee on Banking and Commerce met at 10.00 a.m. The Chairman, Mr. Hughes Cleaver, presided.

Members present: Messrs. Ashbourne, Bennett, Bradette, Byrne, Cannon, Cleaver, Dumas, Fulford, Gibson, Gour (*Russell*), Harris (*Danforth*), Helme, Hellyer, Hunter, Lesage, Low, Macdonnell (*Greenwood*), Macnaughton, Sinclair, Smith (*Queens-Shelburne*), Thatcher, Weaver.

In attendance: Mr. R. W. Warwick and Mr. K. R. MacGregor, respectively Superintendent and Associate Superintendent of Insurance; and the following Officers of the Canadian Life Insurance Officers Association: Mr. H. L. Guy, (Mutual Life of Canada), past President of the Association; Mr. R. H. Reid, Vice-President and Managing Director, London Life Insurance Company; Mr. D. K. MacTavish, K.C., Mr. J. A. Tuck, Counsels for the Association.

On motion of Mr. Hunter, it was

Resolved, That the Committee ask permission to print from day to day 500 copies in English and 200 copies in French of its Minutes of Proceedings and Evidence.

The Committee considered, clause by clause, Bill No. 269 (Letter X-8 of the Senate), An Act to amend The Canadian and British Insurance Companies Act, 1932.

Clauses 1 to 8, both inclusive, and clauses 10 to 42, both inclusive, were severally agreed to.

On motion of Mr. Hellyer, it was

Resolved, That clause 9 and the Schedule to the said Bill stand until the Committee could question Mr. Graham Towers, Governor of the Bank of Canada, Mr. J. E. Coyne, Deputy Governor or Dr. W. C. Clark, Deputy Minister of Finance, on the terms of the said clause and Schedule.

The Committee then considered, clause by clause, Bill No. 268 (Letter W-8 of the Senate), An Act to amend The Foreign Insurance Companies Act, 1932.

Clauses 1 to 22, both inclusive, were severally agreed to and the Schedule to the Bill was allowed to stand until such time as one of the gentlemen named in the above Resolution of Mr. Hellyer, appear before the Committee.

Mr. Warwick and Mr. MacGregor were questioned on the various clauses of the two Bills.

At 12.30 a.m., the Committee adjourned to meet again at 5.30 p.m.

AFTERNOON SESSION

The Committee resumed at 5.30 p.m. The Chairman Mr. Hughes Cleaver, presided.

Members present: Messrs. Adamson, Ashbourne, Byrne, Cannon, Cleaver, Dumas Fleming, Fraser, Hellyer, Hunter, Macdonnell (*Greenwood*), Macnaughton, Prudham, Weaver.

In attendance: The same persons as are named at the morning sitting and, in addition, Mr. J. E. Coyne, Deputy Governor of the Bank of Canada.

The Committee resumed consideration of Bills Nos. 268 and 269.

Mr. Coyne was called, questioned and retired.

Mr. MacGregor answered a few questions.

At 5.50, the Committee adjourned to meet again at 11.30 a.m., Thursday, June 15, 1950.

THURSDAY, June 15, 1950.

The Standing Committee on Banking and Commerce met at 11.30 a.m. The Chairman, Mr. Hughes Cleaver, presided.

Members present: Messrs. Adamson, Ashbourne, Byrne, Cannon, Cleaver, Dumas, Gibson, Hellyer, Hunter, Lesage, Low, Macdonnell (*Greenwood*), Macnaughton, Prudham, Quelch, Richard (*Ottawa East*), Weaver.

In Attendance: Messrs. R. W. Warwick and K. R. MacGregor, respectively Superintendent and Associate Superintendent of Insurance; Mr. H. L. Guy, (Mutual Life of Canada), Past President, Canadian Life Insurance Officers Association.

The Committee resumed consideration of Bill No. 269 (Letter X-8 of the Senate), An Act to amend The Canadian and British Insurance Companies Act, 1932.

Messrs. Warwick and MacGregor were called and questioned in relation to clause 9 of the said Bill.

Clause 9 and the Schedule were severally agreed to.

The Preamble and the Title of the Bill were severally agreed to and the Bill ordered to be reported to the House without amendment.

The Committee then considered Bill No. 268 (Letter W-8 of the Senate), An Act to amend The Foreign Insurance Companies Act, 1932.

The Schedule of the said Bill was agreed to.

The Preamble and the Title of the Bill were severally agreed to and the said Bill ordered to be reported to the House without amendment.

The Chairman informed the Members that the following Bills had just been referred to the Committee for consideration:

Bill No. 307 (Letter F-10 of the Senate), An Act to amend The Trust Companies Act.

Bill No. 308 (Letter J-10 of the Senate), An Act to amend The Loan Companies Act.

After some discussion, it was agreed that the interested parties should be notified before proceeding with the study of the said Bills.

At 12.00 o'clock noon, the Committee adjourned to meet again at 11.30, Tuesday, June 20, 1950.

TUESDAY, June 20, 1950.

The Standing Committee on Banking and Commerce met at 11.30 o'clock a.m. The Chairman, Mr. Hughes Cleaver, presided.

Members present: Messrs. Adamson, Ashbourne, Bennett, Breithaupt, Cleaver, Dumas, Fleming, Fraser, Helme, Hellyer, Macdonnell (*Greenwood*), Macnaughton, Quelch, Richard (*Ottawa East*), Riley, Smith (*Queens-Shelburne*).

In attendance: Mr. R. W. Warwick and Mr. K. R. MacGregor, respectively Superintendent and Associate Superintendent of Insurance; Mr. L. G. Goodenough, Toronto, Counsel for the Dominion Mortgage and Investment Association and also representing the Trust Companies Association of Ontario; Mr. Jules E. Fortin, Toronto, Ont., Secretary Treasurer of the Dominion Mortgage and Investment Association; Mr. C. N. Bissett, the Eastern Trust Company, Montreal; Mr. E. L. Parent, the Guaranty Trust Company, Montreal, Que.

The Committee had before it for consideration the following bills:

Bill No. 307 (Letter F10 of the Senate), An Act to amend the Trust Companies Act; and

Bill No. 308 (Letter J10 of the Senate), An Act to amend the Loan Companies Act.

Mr. Warwick was invited to make a general statement on Bill No. 307 and Mr. MacGregor was questioned on the various clauses of the said Bill.

Mr. Goodenough was called, heard and retired.

Clauses 1 to 12, both inclusive, the Preamble and the Title of the Bill were severally agreed to and the said Bill ordered to be reported without amendment.

Bill No. 308 was thereafter considered clause by clause.

Mr. Warwick and Mr. MacGregor were questioned thereon.

Clauses 1 to 11, both inclusive, the Preamble and the Title of the said Bill were severally agreed to and the said Bill ordered to be reported without amendment.

At 12.10 o'clock p.m. the Committee adjourned to the call of the Chair.

ANTOINE CHASSÉ

Clerk of the Committee.

REPORTS TO THE HOUSE

TUESDAY, May 2, 1950.

The Standing Committee on Banking and Commerce begs leave to present the following as a

FIRST REPORT

Your Committee recommends:—

1. That its quorum be reduced from 15 to 10 members and that paragraph (d), Section (1) of Standing Order 63 be suspended in relation thereto.
2. That it be granted leave to sit while the House is sitting.

All of which is respectfully submitted.

HUGHES CLEAVER,
Chairman.

TUESDAY, May 2, 1950.

The Standing Committee on Banking and Commerce begs leave to present the following as a

SECOND REPORT

Your Committee has considered Bill No. 55 (Letter E of the Senate), intituled: "An Act respecting The Limitholders' Mutual Insurance Company", and has agreed to report same without amendment.

All of which is respectfully submitted.

HUGHES CLEAVER,
Chairman.

THURSDAY, May 25, 1950.

The Standing Committee on Banking and Commerce begs leave to present the following as a

THIRD REPORT

Your Committee has considered the following Bills and has agreed to report them without amendment:

Bill No. 205 (Letter K-4 of the Senate), An Act to incorporate United Security Insurance Company.

Bill No. 207 (Letter K-5 of the Senate), "An Act to incorporate The Canadian Commerce Insurance Company".

Bill No. 208 (Letter A-6 of the Senate), "An Act to incorporate Saskatchewan Mutual Insurance Company".

All of which is respectfully submitted.

HUGHES CLEAVER,
Chairman.

WEDNESDAY, June 14, 1950.

The Standing Committee on Banking and Commerce begs leave to present the following as a

FOURTH REPORT

Your Committee recommends that it be empowered to print from day to day 500 copies in English and 200 copies in French of its Minutes of Proceedings and Evidence.

All of which is respectfully submitted.

HUGHES CLEAVER,
Chairman.

THURSDAY, June 15, 1950.

The Standing Committee on Banking and Commerce begs leave to present the following as a

FIFTH REPORT

Pursuant to the Order of Reference of Monday, June 12, 1950, your Committee has considered the following Bills and has agreed to report same without amendment:—

Bill No. 268 (Letter W-8 of the Senate), intituled: "An Act to amend The Foreign Insurance Companies Act, 1932".

Bill No. 269 (Letter X-8 of the Senate), intituled: "An Act to amend The Canadian and British Insurance Companies Act, 1932".

A copy of the Minutes of Proceedings and of the Evidence relating to the said Bills is tabled herewith.

All of which is respectfully submitted.

HUGHES CLEAVER,
Chairman.

TUESDAY, June 20, 1950.

The Standing Committee on Banking and Commerce begs leave to present the following as its

SIXTH REPORT

Your Committee has considered the following bills and has agreed to report them without amendment:—

Bill No. 307 (Letter F-10 of the Senate), "An Act to amend The Trust Companies Act".

Bill No. 308 (Letter J-10 of the Senate), "An Act to amend The Loan Companies Act".

A copy of the Minutes of Proceedings and of the Evidence relating to the said Bills is tabled herewith.

All of which is respectfully submitted.

HUGHES CLEAVER,
Chairman.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

WEDNESDAY, June 14, 1950.

The Standing Committee on Banking and Commerce met this day at 10 a.m. The Chairman, Mr. Hughes Cleaver, presided.

The CHAIRMAN: Gentlemen, I will now call the meeting to order.

Mr. HUNTER: Before we go on with the meeting, I wonder if I could move that this committee recommend to the House that it be empowered to have the proceedings of the committee printed from day to day—500 English and 200 French?

The CHAIRMAN: Are you ready for the question? All those in favour please signify.

Carried.

The report will be tabled at 11 o'clock this morning and we will ask power to print.

Now, all of you are very busy men and I did not intend that this meeting should be called until 11.30. I know you have correspondence to attend to. I would like a show of hands to decide as to whether we will go on now or at 11.30.

Mr. ASHBOURNE: Three of us left the Committee on Public Accounts and came down here, and we understood it was just a matter of routine.

The CHAIRMAN: All those in favour of adjourning until 11.30 please signify.

Carried.

—Upon resuming.

The CHAIRMAN: Gentlemen, we have a quorum, but before proceeding with the work on Bill W8 and Bill X8 by sections, I would suggest that we have a general statement from the Superintendent of Insurance on the contents of the bills.

Bill W8: An Act to amend The Foreign Insurance Companies Act, 1932.

Bill X8: An Act to amend the Canadian and British Insurance Companies Act, 1932.

R. W. Warwick, Superintendent, Insurance Department, called:

The WITNESS: Mr. Chairman and gentlemen, while several amendments have been made in recent years to the Insurance Acts, this is the first major revision in eighteen years, and while the bill itself may appear to be quite voluminous, the number of new principles involved is very small. Many of the changes suggested are to clarify several sections and remove minor defects and also to repeal other sections which are not now applicable.

The first few sections of the bill have to do with the company clauses part and deal mainly with the composition of the boards of directors and their qualifications therefor.

Section 5 is new. This is added to facilitate the transfer of the shares of stock of Canadian insurance companies. That is a provision similar to one in the Bank Act and also in the Companies Act for some years.

Section 7 is another new clause. It provides for the reduction of the fully paid shares of any Canadian insurance company wishing to do so below the \$100 par value. At the present time, as you know, the par value of the shares of stock of Canadian banks is \$10.

Now then, we have eleven pages of the bill making up section 9, which involves a recasting of the investment section of the Act—section 60. This section relates to the investment powers. In some cases they are enlarged and in other respects the investment powers have been restricted. Briefly, the changes are as follows: At present, investments may be made by Canadian insurance companies in the securities of any government; it is proposed to limit the investment in foreign government securities, other than those of the United States, to the governments of countries in which the companies are actually doing business. The securities of public bodies operating ports, harbours and other services in the British Commonwealth are now eligible under the present Act. It is proposed to change this power to "such securities in any country in which the company is operating."

Equipment trust certificates of Canadian railways are now eligible. It is suggested that this be extended to include United States railway certificates.

For unsecured debentures, the basis of qualification is a dividend test. It is suggested that an alternative qualification be on the basis of the earnings over a five-year period of the corporation.

In the case of no par value common stocks, the present basis is a requirement of \$4 per share per annum for seven years. That has been found most unsatisfactory because of splits in no par value shares. In the bill it is proposed to make the qualification of such shares on the basis of dividends of 4 per cent on the capital account and thus put the no par value shares on the same basis as the shares of par value.

Another subsection will permit investment in real estate for production of income. This class of investment was first permitted under the so-called "basket clause", in the 1948 amendments; this bill will provide that the total investment in securities of that nature will be limited under the two subsections to 5 per cent. Those, gentlemen, are the principal changes in the investment section.

As regards the valuation of securities, the Canadian companies at present take the securities into their statements at not more than the market values. It is now proposed that Canadian life insurance companies may take Dominion of Canada, Canadian Provincial, United States and United Kingdom government securities in at the amortized values, but for all other securities market values are still to be used and for non-life companies market values throughout.

The present Act now provides machinery for the amalgamation and merging of life companies, but there is no corresponding provision for fire and casualty companies. It is thought that this should be permitted for non-life companies and a section to cover that is provided.

In the case of fraternal societies, it is proposed to grant power generally to all such societies to transact the business of personal, accident and sickness insurance, which is a power that some recently incorporated societies have received. It is also thought advisable to remove the \$10,000 limit on the amount of insurance which may be issued to a member and place the responsibility as to the amount which a society may issue on its actuary.

Mr. MACNAUGHTON: Could you refer to the sections as you go along?

The CHAIRMAN: Mr. MacGregor will do that when we are dealing with the sections. I thought the committee would be interested in just a general bird's eye view of the amendments and they will all be gone into later in detail.

The WITNESS: Another change in the first part of the bill will provide for simplification in the requirements for the filing of the various statements and returns.

Now, in the section relating to British insurance companies, these companies, as you know are now required to cover their liabilities in Canada by deposits with the Minister of Finance and also deposits with Canadian trustees appointed under the Act. At present the classes of securities which they may deposit with a trustee are rather limited.

It is proposed that the classes of securities which they may deposit with trustees be enlarged to include the same classes of securities in which Canadian insurance companies may invest with the limitation, however, that any such securities must be of Canadian corporations. And that applies except in the case of securities of the government of the British commonwealth or the United States government. Other changes in this part are related to the Canadian section in so far as statements and returns are concerned.

Now, Mr. Chairman, this bill has been discussed with representatives of the life insurance companies, fire and casualty insurance companies and fraternal benefit societies and we understand it has their approval.

The CHAIRMAN: Thank you, Mr. Warwick.

By Mr. Harris:

Q. Before the witness proceeds, may I ask one question there. I notice that the appropriation from profits for the surplus is necessary to the extent of 25 per cent. The question I wanted to ask the witness is: is there anything within the regulations that forbids or suggests that the directors of any of these companies are forbidden to make charitable donations approved by the Income Tax Act? I may say that a great many charitable donations are made by insurance companies and I just want to go on the record that they are quite within their rights and I want to get the information officially from the witness.—A. The section of the Act there does not prevent or limit such companies from making such donations.

Q. I am sorry, I did not hear that.—A. The section does not prevent the boards of those companies making such donations.

The CHAIRMAN: Before starting into consideration of Bill X8 by sections, is there anyone in attendance here who would like to be heard?

Mr. D. K. MacTAVISH: Mr. Chairman, I represent—and Mr. Tuck is with me—the Canadian Life Insurance Officers Association, and officers of that association, Mr. Guy and Mr. Reid are here. We do not wish to be heard. We appreciate very much indeed the opportunity given to the association to sit down with members of the department to discuss the proposed legislation in advance, and while it would be an exaggeration to say that everything in the amendments is acceptable to us, we do not object and we are here as a matter of courtesy to the committee and are available to answer any questions that may be asked.

The CHAIRMAN: Thank you, Mr. MacTavish.

Bill X8—clause 1. Shall the clause carry?

Carried.

Clause 2. Shall clause 2 carry?

Carried.

Shall clause 3 carry?

Carried.

Shall clause 4 carry?

Carried.

Shall clause 5 carry?

Mr. HELLYER: Mr. Chairman, may I go back to clause 3?

The CHAIRMAN: Shall we revert to clause 3?

Mr. HELLYER: Subsection 15.

The CHAIRMAN: "Failure to elect directors."

Mr. HELLYER: Is there any time limit on that at all, and any penalty for failure to elect directors there?

Mr. MACGREGOR: There is no time limit, but that is the same clause as is included in the Companies Act and has been included in the Insurance Act since 1910.

In the earlier subsections companies are required to elect boards of a certain size at certain times. The purpose of this subsection is really to meet a technicality if for some reason the directors were not elected strictly in accordance with the requirements.

Mr. MACNAUGHTON: In fact, they continue in office until the next annual meeting.

Mr. MACGREGOR: It is to meet the technicality where, under the law, if the company does not elect its board as required, it could be held to be dissolved.

Mr. HELLYER: How long can that continue? There is no restriction at all?

Mr. MACGREGOR: There is no restriction, sir, but in practice we have never encountered a case where the directors have not been elected at the proper time.

Mr. MACDONNELL: There has not been any widespread refusal to act?

Mr. MACGREGOR: No, sir.

The CHAIRMAN: Are there any other questions on section 3? If not, we are on section 5. Shall section 5 carry?

Carried.

Shall section 6 carry?

Carried.

Shall section 7 carry?

Carried.

Shall section 8 carry?

Carried.

Shall section 9 carry?

Mr. HELLYER: Before section 9 is carried I would like to call Mr. Coyne of the Bank of Canada and ask him just how these investment powers fit in with the general economic welfare of the Dominion of Canada. We are here as representatives of the people and must be alive to the general advantages of the Dominion of Canada and all the citizens thereof, and I think it is only fitting that we should have an expert witness, such as he is, on the general investment powers of insurance companies before we accept this subsection.

The CHAIRMAN: I would suggest either the governor of the Bank of Canada or Dr. Clark, the Deputy Minister of Finance.

Mr. HELLYER: Well, I would say the governor of the bank.

Mr. MACNAUGHTON: I do not understand the import of that. I agree in theory.

The CHAIRMAN: I think the import is this, that for the benefit of the general economy of the country these institutions having large funds for investment have power to take up investments in as wide a field as possible.

Mr. HELLYER: It is to facilitate the working of the capitalistic private enterprise system as we know it, and to maintain that system. There is some question as to whether the Act, as presently set up, actually does that or whether it is, in some cases, a bit of a millstone around the neck of the system.

The CHAIRMAN: Mr. MacGregor, would you care to make any remarks?

Mr. K. R. MACGREGOR (Associate Superintendent of Insurance): I might make the comment, sir, that the Governor of the Bank of Canada has had these proposals before him for the last six months and also the Deputy Minister of Finance, and we have met both of those officials on several occasions to discuss these proposals, and so far as I know, they are completely in accord with the measures put forward here. I know of no objection, in any event, from either the governor of the Bank of Canada or the Deputy Minister of Finance—certainly they offered none in our discussions.

Mr. Low: Mr. Chairman, Mr. MacGregor is aware, of course, of a remark made recently in a speech by Mr. Coyne in which he urged some change of attitude on the part of the Canadian people towards investments. Now, one of the difficulties, he sees, and all of us see, is that development of resources will not go forward unless people become resource-minded. We have come to the point in Canada where everybody with money to invest wants to get in on a sure thing. A 3-per cent government bond they look upon as a sure thing and, as a result, the development of resources is not going forward as we would like to see that development go forward. I am supporting the request made by Mr. Hellyer that we do call one of the leading banking officials to give us something on section 9.

The CHAIRMAN: Are you ready for the question? The motion is that the consideration of section 9 stand until Mr. Coyne, Mr. Graham Towers or Dr. Clark be called to give evidence. All those in favour of the motion?

Carried.

Section 10:

Mr. HARRIS: May I just make one suggestion there. One of the best investments that life insurance companies can make, in my opinion, would be to invest some of their funds in hospital work and prolong the life of the present generation so they would insure their premiums as they go along. I hope they will take that to heart.

The CHAIRMAN: Shall section 10 carry?

Carried.

Shall section 11 carry?

Carried.

Shall section 12 carry?

Carried.

Shall section 13 carry?

Carried.

Shall section 14 carry?

Carried.

Mr. MACDONNELL: Could I ask a question on 14 (b)—

"redeemable security" means a security for a fixed term and which is redeemable at the end of that term at a specified value.

Does that mean that a security is redeemable at a certain price before the end of the term? Is that the meaning?

Mr. MACGREGOR: The intention there, sir, is to eliminate perpetual bonds and shares. The definition is for use in connection with amortized values and it

is intended to make it clear that all the particulars must be definite,—the term must be fixed, the redemption value must be fixed, and the bond must provide for redemption at that time at the specified value. That would eliminate perpetual bonds.

The CHAIRMAN: Mr. Macdonnell, did your question have to do with the rather recent provision with regard to municipal debentures?

Mr. MACDONNELL: No, I was thinking of bonds that are redeemable before maturity, perhaps at a premium.

Mr. MACGREGOR: Well, (b) does contemplate that kind of security also, sir, and in computing the amortized value, any earlier option must be taken into account in paragraph (c) defining "yield". That option must be taken for the purpose of computing amortized values that will give the lowest yield.

Mr. MACDONNELL: It is not very important, but my point would be: which is redeemable at the end of that term or earlier on such terms at a specified value.

Mr. MACGREGOR: Paragraphs (b), (c) and (d) ought to be read together, sir.

Mr. MACDONNELL: All right, very good. I am content.

The CHAIRMAN: Would you rather that section would stand?

Mr. MACDONNELL: No.

The CHAIRMAN: Shall the section carry?

Carried.

Shall section 15 carry?

Carried.

Shall section 16 carry?

Carried.

Shall section 17 carry?

Carried.

Shall section 18 carry?

Carried.

Shall section 19 carry?

Carried.

Shall section 20 carry?

Carried.

Shall section 21 carry?

Carried.

Section 22—are there any substantial changes, Mr. MacGregor?

Mr. MACGREGOR: There are two main changes in clause 22. This clause relates to fire and casualty companies. At the present time fire and casualty companies appear to be required to show liabilities in their annual statement of exactly 80 per cent of the unearned premiums. The first proposed change in this clause would make that the minimum, but would make it clear that they may include reserves of more than 80 per cent. We want to encourage them to include more than 80 per cent, and it is possible that in some companies it is necessary that they do include more than 80 per cent. It is designed to strengthen the requirements in that respect.

The second change relates to the reserves to be carried in the annual statements of fire and casualty companies transacting non-cancellable sickness and accident business. That class of business is a rather hazardous type which has been transacted by casualty companies for a great number of years with

varying degrees of enthusiasm, and, at the present time, the Act requires that the basis of reserves for that kind of business shall be specified by the Superintendent of Insurance. Well, it is a practical impossibility for the Superintendent of Insurance to prescribe bases for that type of business for each particular company and the principle is contrary to the general principles elsewhere in the Act in reference to life insurance and all other classes, namely, that the primary responsibility should rest upon the company officers and the Superintendent should be in a position to be able to review the bases used. Consequently, the second change requires the reserves for this type of business—non-cancellable sickness and accident business—to be computed by a qualified actuary and he must make a full report covering the bases he has used, which report will form a part of the annual statement. It is a strengthening in that respect and we think it proper, too, in view of the revival of interest at this time in this particular class of insurance.

Mr. GIBSON: Do the provisions of this Act apply to the insurance business carried on by the province of Saskatchewan—the provincial government?

Mr. MACGREGOR: No, but provincial companies may of their own volition seek registration with the Dominion. It does not apply to provincial companies that are not registered with the Dominion. We have no jurisdiction over them.

The CHAIRMAN: May we finish with section 22? Are there any other questions on section 22?

Carried.

Mr. MACNAUGHTON: May I ask a question on section 20?

The CHAIRMAN: We shall revert to section 20.

Mr. MACNAUGHTON: Merely as a matter of information, do I understand the Society of Actuaries is a Canadian society?

Mr. MACGREGOR: No, sir, it is not. There have been in the past two main actuarial bodies on this continent, both U.S.—the Actuarial Society of America, which is the older, and the American Institute of Actuaries, a newer body. A year ago those two United States organizations were amalgamated into one society, the Society of Actuaries. There are no Canadian societies of actuaries granting degrees. All persons in Canada write the examinations of the Society of Actuaries or the British Institute of Actuaries.

Mr. MACNAUGHTON: Then a Canadian wishing to qualify under section 20, would have to be a fellow of the Institute of Actuaries of Great Britain or the Faculty of Actuaries in Scotland or the Society of Actuaries in the United States?

Mr. MACGREGOR: That is right; and in practice they are. Canadians, as a rule, write the examinations of the Society of Actuaries, as it is now known, and they derive their professional status from that society.

The CHAIRMAN: Are there any other questions?

Shall section 23 carry? Would you care to explain the amendment made by virtue of this section?

Mr. MACGREGOR: The main purpose of section 101 in the Act, dealt with in clause 23 of the bill, is to build up the surplus of fire and casualty companies, the objective being a ratio of assets to liabilities of two to one—that is, to a point where the companies' surpluses are equal to their policy liabilities. The section helps to accomplish that result by limiting the amount of the profits earned each year that may be distributed as dividends.

The section says in effect that at least 25 per cent of the profits of the year last past shall be applied to increase the company's surplus. There are two things being done in this section. The first is merely to clarify what liabilities

are referred to in subsection 2. In subsection 1 there are two kinds of liabilities mentioned and in subsection 2 the words "said liabilities" appear. There is a little confusion for that reason. The revision clarifies this point.

Subsection 3 permits an exemption to the general objective of a surplus equal to the company's policy liabilities. It says that if a company has built up a surplus of \$500,000 and has a minimum paid capital of \$1 million, the total of the two being at least \$1,500,000, that it might count the \$1 million of capital as surplus for the purposes of this two to one ratio. The objection to that provision is that it meets only a particular kind of case—a company with a capital of \$1 million or more. The whole basis of the section is surplus, and it is anomalous that a company with a surplus of, say, \$1 million, and a capital of \$500,000, ought not to be exempted just as well as a company with a surplus of \$500,000 and a capital of \$1 million. In fact, the company with the smaller capital and the larger surplus is probably in a stronger position because it has not as large a drain for shareholders' dividends.

The CHAIRMAN: Are there any other questions on section 23?

Carried.

Shall section 24 carry?

Carried.

Mr. HUNTER: In this section 23 with respect to the 25 per cent, which is appropriated towards surplus, I presume that is still undistributed dividends, is it? There is no method of capitalizing?

Mr. MACGREGOR: No, sir.

The CHAIRMAN: Shall section 25 carry?

Carried.

Mr. HELLYER: Did section 24 carry?

The CHAIRMAN: Yes. Had you any questions on No. 24?

Mr. HELLYER: No.

The CHAIRMAN: Shall section 26 carry?

Carried.

Shall section 27 carry?

Carried.

Section 28—one change is made here, Mr. MacGregor?

Mr. MACGREGOR: In the present section 127, which is dealt with in clause 28 of the bill, there are four subsections at present. Subsections 2 and 3 are being eliminated, and subsection 4 is being renumbered subsection 2. The two subsections being omitted, subsections 2 and 3, relate to an exemption granted to British companies many years ago. This section applies only to British companies.

In the past, British companies and foreign companies operating in Canada did so, to a large extent, through general agents. They were required to maintain a Canadian chief agency, but by reason of delays in communications and for other reasons, these subsections permitted the general agents to report directly to their home offices in New York or wherever the officer might have been, without reporting their business through the Canadian chief agency, so long as a summary statement was sent to the chief agent. By reason of improved communications and changed conditions, these general agents now do route their business through the Canadian chief agency, which is certainly to be preferred from the department's point of view, because all of the records are now maintained in the Canadian chief agency. There is no longer any need for this old exemption, and we are glad to see it disappear.

The CHAIRMAN: Shall the section carry?

Carried.

Section 29—have you any comments, Mr. MacGregor, in regard to sub-section 3 of the new section?

Mr. MACGREGOR: Section 127A simply covers the values at which bonds and stocks must be shown in the Canadian statements of British companies. This requirement was formerly dealt with by a cross-reference to the Canadian section 67. The only change brought about by this new section is that in addition to the market values for all bonds and stocks, which we have always got, British companies are now asked to report the amortized values also, for three classes of government bonds—Dominion (including provincial), United Kingdom and United States federals. It calls for a little more information than we now receive. It adds the amortized values of these three classes of government bonds to the previous requirement to show the market values alone.

The CHAIRMAN: Shall section 29 carry?

Carried.

Shall section 30 carry?

Carried.

Shall section 31 carry?

Carried.

Shall section 32 carry?

Carried.

Shall section 33 carry?

Carried.

Shall section 34 carry?

Carried.

Shall section 35 carry?

Carried.

Shall section 36 carry?

Carried.

Shall section 37 carry ?

Would you mind explaining section 37, Mr. MacGregor?

Mr. MACGREGOR: Clause 37, relating to section 150 of the Act, falls in Part IX dealing with provincial companies. That part of the Act says in effect that any provincial company may, if it wishes, seek Dominion registration. There is nothing compulsory about it; it is solely up to the provincial company. If it does make application for that purpose, then it is asked to give an undertaking that it will comply with certain sections of the Act, being the sections named in 150.

The only changes in the section are in these named sections and due to certain renumbering in the present Bill. The changes are solely of this nature.

The CHAIRMAN: And in the case of any subsequent failure to comply or make returns, what is the penalty—loss of registration?

Mr. MACGREGOR: That is right—loss of registration.

Mr. Low: Would a provincial company be required to register federally under this Act before being allowed to sell insurance in other provinces?

Mr. MACGREGOR: No, sir, a provincial company may operate in its province of incorporation or in other provinces without seeking Dominion registration.

The CHAIRMAN: Shall the section carry?

Carried.

Does section 38 carry?

Carried.

Shall section 39 carry?

Carried.

Shall section 40 carry?

Carried.

Shall section 41 carry?

Mr. CANNON: That reduces the rate of the interest for purposes of registration?

Mr. MACGREGOR: There are two changes here. This clause 41 prescribes the bases for calculating the minimum reserves for life annuity contracts. At present the maximum rate of interest is 4 per cent, which we think is too high. This clause reduces it to $3\frac{1}{2}$ per cent. That is the first change.

The second change is to add two new mortality tables that may be used for this purpose. At the present time the only table prescribed is that listed as item (b), namely, Rutherford's Annuity Tables. That table is not now mentioned in the Act, but it is described. There would be added the tables mentioned in item (a), Mortality of Annuitants, 1900-1920 and in (c), the 1937 Standard Annuity Table. These are additional tables that might be used by life insurance companies.

Mr. Low: Are they more generous than those now used?

Mr. MACGREGOR: No, more stringent, because these tables show lower rates of mortality and consequently higher reserves.

Mr. MACDONNELL: Am I correct in understanding there are two or three different tables that can be used, but they would not give different results?

Mr. MACGREGOR: Yes, they would. They are different mortality tables and they would give varying reserves. In general, the newer tables give higher reserves and, of course, the companies must use those newer tables for new business in order to maintain adequate reserves.

Mr. CANNON: I see that the Superintendent has the power to prescribe that another table of mortality may be used?

Mr. MACGREGOR: The general principle in the Act, both in reference to life insurance policies and life annuity contracts is to prescribe certain tables that are known to be safe and conservative.

In the explanatory notes opposite page 40, the present tables prescribed for life insurance policies are given, and this clause 41 is for the same purpose in reference to annuity contracts. These are permissive tables, but if any company believes that for a particular class of policies none of the prescribed tables is appropriate, then it may apply to the Superintendent for approval of the table it believes to be the most appropriate. In effect, it must make a case that none of the prescribed tables is appropriate and that the one it wishes to use is the most appropriate.

Mr. GIBSON: And you are only allowing $3\frac{1}{2}$ per cent to be used. Are not the government annuities still giving 4 per cent?

Mr. MACGREGOR: This Act has no application to government annuities, sir. The present rates for government annuities, I might say, are not now at 4 per cent; they are at a lower rate. The old rates were at 4 per cent but the newer ones are not.

Mr. GIBSON: What are they now?

Mr. MACGREGOR: Three per cent.

The CHAIRMAN: Mr. MacGregor, what increase in life expectancy has occurred comparing the 1900 table with the 1937 table; can you give us that?

Mr. MACGREGOR: That is rather difficult to answer, sir. The general improvement in mortality has been most marked, of course, at the younger ages, but these mortality tables—

The CHAIRMAN: Comparing the 1900 table to the 1937 table, what difference is there?

Mr. MACGREGOR: Well, the shapes of the curves are different, sir. If we look first at (a), the Mortality of Annuitants, 1900 to 1920, that was a table based on the experience of British companies during the years 1900 to 1920. However, the actual experience reflected by that investigation is that shown by Rutherford's Annuity Tables in (b). The table in (a) was constructed on the basis of that investigation but did not reflect the actual experience; the table was in fact a forecast, an attempt to foresee what the mortality might be in a subsequent period. There is no constant ratio between any of those tables. I can say in general that by far the most marked improvement is at the lower ages, but at the higher ages the relation between Rutherford's tables and the tables known as the Mortality of Annuitants 1900 to 1920 ($a(f)$ and $a(m)$) varies considerably.

Mr. CANNON: Just one more question to understand that properly. Would it be correct to say that Rutherford's table is based on the mortality rates from 1900 to 1920?

Mr. MACGREGOR: Rutherford's tables were based on the actual experience shown by an investigation of British companies from 1900 to 1920.

Mr. CANNON: Would not they be somewhat out of date now?

Mr. MACGREGOR: They are for new business, but for certain old business written several years ago, which has now aged, they may still be satisfactory.

Mr. CANNON: They are not written for new business?

Mr. MACGREGOR: No.

Mr. GIBSON: Is it more expensive for a woman to take out an annuity than for a man, or do they even them up?

Mr. MACGREGOR: Broadly speaking, so far as life annuities are concerned, a female life may be taken, for all practical purposes, as a male life at an age about five years younger.

Mr. GIBSON: So they do differentiate between the rates?

Mr. MACGREGOR: Oh, yes, there are separate tables for each sex. In (a), there is the (f) table, based on female lives, and the $a(m)$ table, based on male lives. So also with Rutherford's tables.

The CHAIRMAN: Are there any other questions on section 41?

Carried.

Shall section 42 carry?

Mr. MACGREGOR: Section 42, gentlemen, simply refers to "term certain" annuities rather than "life annuities," and the only change is to reduce the maximum rate of interest from 4 per cent to $3\frac{1}{2}$ per cent.

The CHAIRMAN: Shall the section carry?

Carried.

The Schedule—I believe the schedule had better stand pending the calling of the witness asked for.

Mr. MACGREGOR: Perhaps, I might explain, gentlemen, that the section that was passed over earlier, being section 60, dealt with in clause 9 of the bill, relates to the investment powers of Canadian insurance companies. This schedule is a direct counterpart, but relates to the kinds of investments that a British company may invest in trust in Canada against its Canadian liabilities.

The CHAIRMAN: Inasmuch as the committee wishes section 9 of the bill to stand, I think it would be as well for us to let the schedule stand.

Mr. MACNAUGHTON: Mr. Chairman, I am still confused about this proposed calling of witnesses. What is the intended purpose? If it is a long economic discussion, it is going to be very interesting, but it seems to me that the drafters of the bill must have gone over the investment policies in general, namely, what is reasonable, safe and right. Is that the purpose—just to get a further explanation of those investments which it is desirable that insurance companies may purchase and invest in or is there some other purpose?

The CHAIRMAN: Well, the purpose was indicated at the time the motion was under discussion. The motion has been carried and I do not feel that we should revert to a motion and re-discuss a motion we have already carried at the present session of the committee. If you wanted to ask any specific questions in regard to it, in order to be prepared when the witness gives evidence, there would be no objection to that, but we did discuss the matter and decided to call the witness, and I am endeavouring to make the arrangements for the witness to be heard as promptly as possible. At this date in the session, of course, it is most important that the bill should be reported to the House as soon as possible. Also, there are some witnesses from out of town who may want to remain over and hear this evidence. I cannot say whether I can have a witness here this afternoon or not, but I will not lose any time.

Shall we now turn to bill W8, an Act to amend The Foreign Insurance Companies Act, 1932. Shall section 1 carry?

Mr. MACDONNELL: Could we have a general word about this? Perhaps it might facilitate it.

Mr. WARWICK: This bill to amend the Foreign Insurance Companies Act, Mr. Chairman and members, is the counterpart of the British section in the Canadian and British Insurance Companies Act.

Mr. MACDONNELL: Can you make that statement absolutely that it is for technical reasons covering what we have already approved?

The WITNESS: That is right, sir, with the same question about the schedule, of course, as in the other.

The CHAIRMAN: Shall section 1 carry?

Carried.

Shall section 2 carry?

Carried.

Shall section 3 carry?

Carried.

Shall section 4 carry?

Carried.

Any time I go too fast, please tell me. Shall section 5 carry?

Carried.

Shall section 6 carry?

Carried.

Shall section 7 carry?

Carried.

Shall section 8 carry?

Carried.

Shall section 9 carry?

Carried.

Shall section 10 carry?

Carried.

Shall section 11 carry?

Carried.

Shall section 12 carry?

Carried.

Shall section 13 carry?

Carried.

Shall section 14 carry?

* Carried.

Shall section 15 carry?

Carried.

Shall section 16 carry?

Carried.

Shall section 17 carry?

Carried.

Shall section 18 carry?

Carried.

Shall section 19 carry?

Carried.

Shall section 20 carry?

Carried.

Shall section 21 carry?

Carried.

Shall section 22 carry?

Carried.

And the schedule will stand.

Mr. Macdonnell moves we adjourn until 4 o'clock this afternoon. I will send around notices to every member of the committee in the event there is any change.

Mr. MACNAUGHTON: The Committee on Old Age Security meets at 4 o'clock, and it is an important session.

The CHAIRMAN: Shall we say, then, 5:30, and if there is any change I shall send around a notice.

—The committee adjourned.

WEDNESDAY, June 14, 1950.

AFTERNOON SESSION

—The committee resumed at 5.30 p.m.

The CHAIRMAN: We have a quorum, gentlemen, and we will carry on. We have with us Mr. Coyne, Deputy Governor of the Bank of Canada, who has been kind enough to rearrange his appointments to come here. Would you carry on, Mr. Hellyer?

Mr. J. E. Coyne, Deputy Governor, Bank of Canada, called:

Mr. HELLYER: Well, all I would like to know is, first, how the various sub-sections of section 9 fit into the general economic welfare of the Dominion of Canada as to providing capital for the development of resources and maintaining our high level of economic prosperity, and also as regards the debt structure and the cost of servicing the debt structure on the rest of the industry in the dominion, and that type of thing.

The CHAIRMAN: It is fair to tell you, Mr. Coyne, that the reason you are asked to come here is as a result of a recent speech which you made and which was reported in the press, where you are reported to have made certain comments as to investments by insurance companies.

Now, would you care to make a statement regarding that speech, or would you rather answer the broad question which Mr. Hellyer has just asked you?

The WITNESS: Well, perhaps I should start by saying that I am not familiar with the details of the legislation before you now. I was invited by the Canadian Life Insurance Officers Association to speak to them at their annual meeting on the general subject of savings and investments in Canada and I did so. Most of what I had to say related to the significant development in that field since the war, during which period, as far as one could tell, the financial machinery of the country responded very well to changing conditions and operated in different ways at different times—sometimes the banks, sometimes life insurance companies providing the capital needed in certain areas—sometimes private investors.

But looking to the future one wonders—and this is the question I left before the meeting—from what quarters will come the capital needed for continuing the development of Canada and just what part the financial institutions will play in that process, having regard to the fact that so great a proportion of savings flows through their hands.

My purpose, as I said, was to ask questions or, at any rate, to ask a general question of that nature with a view to provoking discussion either at the meeting or later among the gentlemen concerned, with the hope that they and other interested people from time to time would provide the answers, and out of the answers that various people might give some sort of development might come. But I am no expert on insurance companies.

By Mr. Hellyer:

Q. Do you think that the insurance companies, with their experience and with their machinery as already set up, would be in a position, if given wider powers, to further the economic development of the country by supplying the needed amounts of capital as required and, at the same time, spreading the risk sufficiently to protect the policy holders?—A. I think they always have done that and it is generally a question of degree as to how far they wish to do it and how far the legislation will permit them to do it.

Q. Are there any other comparable sources of collected savings?—A. Comparable to insurance companies?

Q. Yes, to the amounts of money that they have to invest?—A. Well, I should think the various savings deposit institutions between them have a greater amount of personal savings left with them than the insurance companies do.

Q. With the exception of the savings deposit companies and the banks, is there any other collecting agency or any other method which has already been set up and effective for collecting from the people such vast amounts of capital?—A. Well, those are the institutions as generally described but, of course, the private individual may subscribe capital directly to industry or most likely not directly but through the medium of an investment dealer who advises him or lets him know what investments he can make and helps him to make them.

Q. But that is far more of a personal risk, though, than a collective risk?—A. Yes.

Q. And I think in your speech you mentioned something about the nature of Canadians generally—that they like to take risks on a collective basis where they just individually risk very little but have the benefits of development rather than taking a risk entirely from an individual standpoint?—A. I did not single Canadians out in that regard. I suggested that with higher taxation and the changing economic conditions you do not find those large individual fortunes being accumulated relatively on the same scale today as you did in earlier periods, that more and more of the personal saving in the country is done in small individual accounts by a large number of individual people and people in those circumstances do not have the same large individual sums of money and cannot afford to take the same risks that perhaps in an earlier day a few individual enterprisers were able to take.

Q. Well, do you think that the difference to the economy generally is pronounced as between one type of investment and another as for, say, supplying capital in the form of preferred shares as against buying government guaranteed bonds or something like that?—A. I think there has to be a proper balance at all times between the different kinds of investment. Partly that would depend on what the enterprises themselves want, whether they want to borrow money or to sell stock and partly on what the investors want to do with their money, whether they are looking for bonds or are prepared to invest in stocks and oil leases and things of that sort.

MR. MACNAUGHTON: Mr. Chairman, I wonder if I might interject here? It is right along the line of Mr. Hellyer's proposition. I had the advantage of reading the speech by Mr. Coyne this afternoon and trying to bring it down to the points at issue. On page 10, for example, it says:

The only other outlet for personal savings that can be accurately measured is the annual increase of about 200 million dollars in the Canadian reserves of life insurance companies. In round figures, an amount equal to more than 60 per cent of net annual personal saving is placed at the disposal of banks, other savings institutions, and insurance companies.

Then, on page 13:

One of these facts is the dominant role of life insurance companies and chartered banks as repositories for the savings of the Canadian people. As I have already mentioned, funds equal to more than 20 per cent of the total new saving of individuals, farmers and unincorporated businesses are accruing to life insurance companies each year and, if chartered banks are included the proportion is over 60 per cent.

Then, again, on page 14:

The trend, it seems to me, is towards an increasingly important role for life insurance companies and banks in transmuting individuals' saving into productive investment.

And on page 15:

But most Canadians, I think, would look for a growing direct participation of Canadian capital in all lines of investment activity, and would expect our major financial institutions to provide leadership in that direction.

If I understand my friend correctly, the feeling is that inasmuch as a large proportion—20 per cent—of the savings of the country are going into insurance companies, perhaps it might be possible to give them greater opportunity to participate in what is called "enterprise finance" rather than tying up that savings proportion in gilt-edged securities which, perhaps, do not do as much productive enterprise financing as some people would like to see.

Mr. MACDONNELL: I take it that Mr. Coyne would approve of the fact that the amendment contained in these bills is extending somewhat the field of insurance investment and I take it that the department will consider with industry, as time goes on, whether it could be further extended?

Mr. HELLYER: The extension, Mr. Chairman, are very modest, are they not?

The CHAIRMAN: I would hardly say they are modest and I think perhaps one point is being lost sight of. All parliament can do is to extend the powers of these insurance companies and the responsibility then rests with the company directors as to what extent they take advantage of the powers.

May I ask this question? Mr. Coyne, do you know of any part of our industrial or business economy that is suffering from lack of enterprise capital?

The WITNESS: "Suffering" is a very strong word.

By the Chairman:

Q. Well, retarded—unduly retarded by lack of enterprise capital?—A. I would think it more likely that there would be some business which have found it desirable under the circumstances to borrow money by way of bond issues which might have preferred to get some more money of an equity character instead. But they got the money so far.

Mr. ADAMSON: Well, Mr. Chairman, the Steel Company of Canada is a classic example. Now, we cannot say they have any difficulty in getting money, but one of the main problems facing the company is raising more money for expansion. The president, in his annual report, made a very definite point of that requirement for getting more money for expansion and how to do it with the equity or preferred and common shareholders taking care of it.

The WITNESS: Well, I would not want to deny in any way that I think, and I am sure that everybody thinks, that it is desirable that life insurance companies should take part in that process, but what the degree should be at any particular time is a matter of judgment.

Mr. ADAMSON: Could you say in the portfolios of the life insurance companies, whether they have invested up to the maximum of 30 per cent?

The CHAIRMAN: Mr. MacGregor will be able to answer that question.

Mr. ADAMSON: Have all life insurance companies taken advantage, or most of them, of investing to the maximum of 30 per cent in common stock?

Mr. MACGREGOR: That is to say, 30 per cent of the shares of any particular corporation? The limit is 15 per cent of the insurance company's funds that may be invested in common shares.

Mr. ADAMSON: Have they taken advantage of that?

Mr. MACGREGOR: Well, yes, sir, they have in a few cases in the past. The 15 per cent limitation was written into the Act in 1932. Prior to that time there was no limit and some companies had a very high proportion of their assets in common shares. It was that high proportion that contributed to the 15 per cent rule.

Mr. ADAMSON: Would you care to say or give your opinion as to whether 15 per cent is sufficient?

Mr. MACGREGOR: In my opinion, it is ample.

Mr. ADAMSON: You would not like to see that increased?

Mr. MACGREGOR: Not for common shares—no.

Mr. MACDONNELL: When you say "ample", do you mean as far as they can safely go?

Mr. MACGREGOR: 15 per cent—yes.

The CHAIRMAN: The meeting is adjourned until tomorrow morning at 11.30.

The committee adjourned.

HOUSE OF COMMONS,

THURSDAY, June 15, 1950.

The Standing Committee on Banking and Commerce met this day at 11.30 a.m. The Chairman, Mr. Hughes Cleaver, presided.

The CHAIRMAN: Gentlemen, we have a quorum. Are there any further questions of Mr. MacGregor on section 9 of Bill X-8?

K. R. MacGregor, Associate Superintendent of Insurance, called:

By Mr. Adamson:

Q. Yes, I would like to ask Mr. MacGregor a few questions and they arise from this: an insurance company is allowed to invest 15 per cent of its funds in common stocks. Now, that was brought about by the stock market crash in 1929. Some insurance companies, particularly the Sun Life, had a very large holding of common stock when the market crashed, and it rather jeopardized or was thought to rather jeopardize the equity of the securities behind the policies. I think there was special legislation put through this House on that account, was there not?—A. No, sir, there was no special legislation to impose a limit. The 15 per cent limitation was written in for the first time when the present general Act was enacted in 1932.

Q. Well, was not that the reason?—A. In general, yes; there were several companies at the time that were above 15 per cent.

Q. And some of them had considerably over 15 per cent?—A. That is correct, sir.

Q. Well, I want to suggest this to you, sir, because I feel that we are now in another and almost equally dangerous period. While we have not got a wild runaway stock market, nevertheless it is unfortunately or apparently the policy—certainly of the American government and I am afraid we will be forced to follow suit to a very considerable degree—to write into the national economy a constantly expanding inflationary item in the equation, and I do not see, and I think that economists in the United States do not see anything for it but a decreasing purchasing power of the dollar over the next ten, fifteen, twenty, twenty-five or forty years, and certainly there is very considerable danger of that happening both here and in the United States. I mean, our expenditures for defence, our expenditures for social security, can only have one effect, and the same thing applies in the states, and that is the decreasing value of the purchasing power of the dollar.

Now, if that takes place your only cushion against your lowering purchasing power of the dollar is in equities, and if your insurance companies are held down to the 15 per cent in equities, do you not think they are likely to be adversely affected if the conditions which are apparently causing considerable worry take place?—A. I would make two comments on that question, sir. First, the present limit is 15 per cent on common shares, but the over-all average of the investments of our Canadian life insurance companies in common shares at the present time is about 3 per cent, so that they are far away from the limit in the Act now.

With reference to preferred shares, there is no limit in the Act and the over-all average is between 2 and 3 per cent, so that I think there is hardly any need at the present time to consider any alteration of the limit under the Act now as respects common shares.

The second comment I would make is that the liabilities of our Canadian life insurance companies are monetary debts against which assets are usually held in the same currency. While they have large funds in their hands, the security of those funds is the first essential. They have not unduly large surplus funds. I do not mean to suggest by that that they are not large enough, but they are certainly not too large, and investments in any form of equity, as you undoubtedly know, sir, are subject to substantial fluctuation; if the proportions of our insurance companies' funds invested in equities, whether common or preferred, were increased, then they would have to maintain larger surplus funds as a buffer against possible fluctuations.

It boils down pretty much to whether life insurance companies can afford to take those risks. We think they cannot except in a very small degree in equities of any kind.

You made reference to the U.S.A. I may say there that New York state is perhaps the most important insurance state in the union. Companies there are not permitted to invest in common shares at all and a committee earlier this spring gave considerable attention to widening their investment powers. One suggestion was to permit 1 per cent, but no action was taken even on that proposal.

By Mr. Hellyer:

Q. Does the same rule apply to British companies?—A. We do not attempt to legislate with respect to the investing powers of British companies. We merely prescribe the kinds of investments that they may trustee here for the protection of their Canadian policy holders.

Q. What is the limit of their investment in common shares?—A. They may trustee in Canada, against liabilities of Canadian policy holders up to 15 per cent.

Q. What is their own limit on common shares?—A. There is no limit. Their investment powers are practically unlimited.

Mr. ADAMSON: They can invest in any type of security whatsoever.

Mr. MACNAUGHTON: May I pursue this a little further? Is the import of your question that the percentage should be increased?

Mr. ADAMSON: Well, I was asking for Mr. MacGregor's opinion on that. The import, I would think, would be to increase it, because I feel that with the constantly expanding and constant inflationary pressure which the economy of this country and the United States is certainly under, that equities averaged over the next period of years are probably the most secure form of investment. Of course, I am merely speaking as an individual and I was asking the experts their opinions. Their opinion is no.

The WITNESS: Investment policies vary, of course, among companies. Some lean heavily towards mortgages, some more heavily towards corporate finance—bonds and shares—with very few mortgages, and so on, but large holdings of equities are not in my opinion appropriate for life insurance companies.

By Mr. Macdonnell:

Q. Am I right in thinking that whether or not you agree with the views that Mr. Adamson has laid down—and personally I hope that sometime it will be arranged that it does not turn out in that manner—nevertheless, you say that there is a leeway of between 3 per cent and 15 per cent available to the companies if they wish to increase their investments in that type of security?—A. In common shares—yes.

By Mr. Adamson:

Q. I think the answer is that the companies do give consideration to their investment policy and it is a huge problem, but they do not utilize the facilities of the Act; they are not using up to the 15 per cent they are allowed?—A. Well, of course, the primary responsibility of companies is to their policy holders and safety is the first consideration, but companies are certainly always on the lookout for investments in securities that will yield the maximum return consistent with security of the principal, and our policy in Dominion legislation always has been to keep changing the investment provisions from time to time to keep up to date. We have followed that policy ever since the investment provisions were put in the general Act back in 1899, and really the proposals in this bill are just another step in that evolution.

We think the proposals in this bill do go far enough to permit the companies to perform every function that they should be expected to perform, both for their policy holders and for the economic system as a whole.

The CHAIRMAN: Any other questions?

By Mr. Hellyer:

Q. Would Mr. MacGregor explain the basket clause for the benefit of the members?—A. The so-called "basket" clause represented a new principle introduced in 1948, sir. In effect, it simply gives companies a margin of 3 per cent of their assets in which they have virtually complete freedom to exercise their own investment judgment.

Q. Could that be invested in common shares, say, of a new company which did not qualify under the dividend rule?—A. Yes, sir but any common shares purchased under that provision would still be subject, like all other common shares, to the over-all 15 per cent limit.

By the Chairman:

Q. To what extent has advantage been taken of that power?—A. That provision was enacted in June, 1948, and the average now is about $1\frac{1}{2}$ per cent. It has been taken up to the extent of about 50 per cent.

By Mr. Adamson:

Q. Under this legislation a company cannot buy stock, or could it, in an investment trust? There is such an investment trust holding life insurance company shares. Can a life insurance company invest its money in insurance company trust?—A. Under this so-called "basket" clause, a company may make any loan or investment not falling within the prescribed classes, subject to the limitation that the 15 per cent for common shares must not be exceeded in total, that a company may not purchase more than 30 per cent of the shares

of any particular corporation and subject to the limitation that it cannot make mortgage loans in excess of 60 per cent of the appraised value or purchase securities in default.

Q. Then it could buy trusts of insurance companies. One more question. Has any company at any time ever requested the right to pay policy holders abroad in gold?—A. I do not recall any, sir.

Q. I wondered whether it would be of advantage to them because of the tremendous business our Canadian companies do abroad—whether, if they had that right, it would be of any assistance to them?—A. I doubt it very much. Our Canadian companies happily have a reputation second to none for prompt payments. Their reputation in foreign fields is certainly second to none. I cannot see that a provision to pay in gold, even if the government were prepared to furnish the gold for that purpose, would assist them; on the contrary, it would be dangerous because the premium would not likely be paid in gold.

Q. I understand a tremendous business is done in the Orient and that Canadian companies do a bigger business than—I think I am right—the United States and the United Kingdom put together?—A. They have done a very large business—yes.

Q. And in the unsettled state of the Orient at the present time I wondered whether it might not be of advantage to them if they had the right to pay in gold?—A. I do not think so, sir. The liabilities incurred by our companies in those foreign countries are generally in native currencies that are known and understood and accepted by the policy holders in those countries.

Q. What happens when you get into a country like China where inflation takes place?—A. Well, both the assets and the liabilities go in the same direction—up or down, sir.

Q. And a policy holder in the Canadian government, say, in China cannot insure himself in dollars?—A. Oh, he can if he wishes. There are many Canadians, Americans and others working in the Orient who take policies in Canadian or U.S. dollars or sterling. Usually they would have an expectation of returning eventually to Canada or their home land.

Q. But the natives—do they do the same thing?—A. No, the native business is usually in native currency, broadly speaking.

By Mr. Hellyer:

Q. What are the percentage limits of mortgages in the United States and Great Britain?—A. There is no statutory limit in Great Britain. In the United States it is 60 per cent in some states, and it is 66 $\frac{2}{3}$ per cent in other states, and in at least one it is as high as 75 per cent providing the company puts a reserve in its balance sheet for the excess over 66 $\frac{2}{3}$ per cent.

Q. Have there been any requests from Canadian companies to increase that percentage?—A. We are always receiving requests or suggestions concerning many things. We have received requests to raise that limit but by reason of the high valuations and prices now prevailing, we have thought the present time particularly inopportune even to consider it.

The CHAIRMAN: Shall section 9 carry?

Carried.

Shall the schedule carry?

Carried.

Shall the preamble carry?

Carried.

Shall the title carry?

Carried.

Shall I report the bill?

Carried.

Bill W8 of the Senate—shall the schedule carry?

Carried.

Shall the preamble carry?

Carried.

Shall the title carry?

Carried.

Shall I report the bill?

Carried.

We have had referred to us by the House this morning amendments to the Loan Companies Act and the Trust Companies Act paralleling the amendments which have been made to the Insurance Companies Act. Is it you wish to take up these bills now? Bill F10—An Act to Amend the Trust Companies Act.

Mr. MACNAUGHTON: I think we should be given a little time to study these Acts. It may not have been possible, I know, but I do not know why it should not be possible in future.

Mr. HELLYER: Is there any reason, Mr. Chairman, why this could not have been brought down a couple of days sooner?

Mr. LESAGE: Are they the same amendments as in the other Act?

The CHAIRMAN: These bills were originated in the Senate. They reached the House of Commons yesterday. The Speaker, you will recall, read the advice from the Senate and the Commons has dealt with them very promptly.

If you wish to deal with them now, we will. If not I will take a motion to adjourn until 4 o'clock this afternoon.

Mr. ADAMSON: Could Mr. MacGregor make a statement on them?

Mr. MACDONNELL: Could I just ask this question first? I think this has had a quick passage beyond what was expected. Perhaps Mr. MacGregor could answer this question. I think the representatives of the trust and loan companies rather thought that this Bill would not be up until tomorrow or Monday. Am I right Mr. MacGregor in that?

The WITNESS: That is quite correct, sir.

Mr. MACDONNELL: In case there was anything that was controversial, it would seem a pity to deal with this Bill without the representatives of the institutions being here.

The CHAIRMAN: I think the point is well taken. If any representatives of the trust companies or loan companies wish to attend, I think the Bill had better stand over until Tuesday and they should be properly notified.

Mr. Low: I so move that these two bills be left over to the first part of next week.

The CHAIRMAN: Are you ready for the motion. All those in favour?

Carried.

We will adjourn and thank you.

The committee adjourned.

HOUSE OF COMMONS,

TUESDAY, June 20, 1950.

The Standing Committee on Banking and Commerce met this day at 11.30 a.m. The Chairman, Mr. Hughes Cleaver, presided.

The CHAIRMAN: Gentlemen, we have a quorum.

The two bills before us this morning are Bills F10 of the Senate, An Act to amend the Trust Companies Act, and Bill J10 of the Senate, An Act to amend the Loan Companies Act. Shall we have a general statement from Mr. Warwick, Superintendent of Insurance, first?

Mr. R. W. Warwick, Superintendent of Insurance, called:

The WITNESS: Mr. Chairman and gentlemen, although the Trust Companies Act was extensively revised in 1947 it is now thought desirable to make a few rather minor changes. Page 1, section 1, of the Trust Companies Act: The Act as it stands at present appears to contemplate the issue of partly paid shares only. Changes have been made in section 1, page 1, to indicate that there is no objection to the issue of fully paid shares of capital from the outset.

Page 1, sections 2 and 3: These sections deal with the election of directors and the provision for presiding officers at meetings. These sections have been clarified and also have been extended to include the chairman of the board.

Page 2, section 4: This section will enable a by-law to be confirmed at a special general meeting held before the next annual general meeting.

Page 2, section 5

Mr. FLEMING: Mr. Chairman, I don't want to interrupt, but I thought you asked for a general statement rather than a special statement about the sections. Is there any general statement apart from the fact that this is a revision of the Act?

The CHAIRMAN: It is a very short bill, Mr. Fleming.

Mr. FLEMING: I am familiar with the bill, itself, Mr. Chairman. I was under the impression that there was nothing in the bill that called for a general explanation except as to the fact that it is a tidying up and an extension of the lending powers.

The CHAIRMAN: Yes, with parallel amendments to other Acts, particularly the Insurance Companies Act.

Mr. FLEMING: Isn't that the whole story of the general statement?

The WITNESS: That is right, sir.

Mr. MACNAUGHTON: Lets go ahead and finish the explanation.

The CHAIRMAN: It will not take long.

The WITNESS: Section 5 on page 2. This also makes clear that a company may issue fully paid shares.

Section 7 on page 3. This is being added to facilitate the transfer of shares and securities in the event of the decease of the owner. A similar provision is in the Bank Act, in the Companies Act and also proposed in the recent amendments to the Insurance Act.

Mr. BENNETT: What about section 6?

The WITNESS: Section 6 merely adds the word "Newfoundland".

Section 8 page 4, relates to the investment of trust funds. The change here is to authorize the trust companies to invest guaranteed trust funds in income producing real estate. This is similar to the authority given for the investment of the company's own funds.

Section 9, page 5: The present Trust Companies Act authorizes only one general trust fund with a limit of \$3,000 as the total of any one trust that may be invested in such fund. This section has been found to be of practically no use and it is proposed here to enlarge the powers of a trust company to permit the maintenance of one or more common trust funds for the investment of trust moneys, subject to the limitation prescribed by the laws of the province where the trust is administered.

Also on page 5, section 10: It is proposed to permit the trust companies to invest their own funds in real estate for the production of income. It is also proposed to change the basis of determining the eligibility of no par value common shares to a 4 per cent basis on the capital stock account of the company. These particular revisions are the same as have been proposed for Canadian Insurance Companies.

Section 11 on page 7: The Act now makes provision for the acquisition by agreement of other trust companies; however, the investment by a trust company in the shares of other trust companies is prohibited. To put Dominion companies on a competitive basis with provincial companies it is proposed in this section to permit the acquisition of other companies through the purchase of their shares, subject however to prior authorization in each case by the Treasury Board; also the requirement that the purchased company must be taken over completely within a two year period.

Those, gentlemen, are the more important points of the bill.

The CHAIRMAN: Thank you, Mr. Warwick.

We have with this morning also Mr. L. G. Goodenough, Counsel for the Dominion Mortgage and Investments Association and also for the Trust Companies Association of Ontario; Mr. Jules E. Fortin, Secretary Treasurer of the Dominion Mortgage and Investments Association; Mr. C. N. Bissett, the Eastern Trust Company, Montreal; and Mr. E. L. Parent, Guaranty Trust Company, Ottawa; and Mr. J. S. Shakespeare, of the Ottawa Valley Trust Company, Ottawa.

Would any of you gentlemen wish to make any representations to the committee?

Mr. GOODENOUGH: Mr. Chairman, both the Dominion Mortgage and Investments Association and the Trust Companies Association of Ontario are interested in the Trust Companies Act. As you know, the Trust Companies Act was first enacted in 1914 and it was not until 1947 that there were any amendments to any of the sections of that Act, and naturally during the intervening thirty-three years a considerable number of sections became obsolete, inadequate and out of date, due to changes in business methods and methods of financing and procedure. In 1947, as Mr. Warwick mentioned, a number of amendments were made with a view to bringing the Act up to date and more into line with corresponding provisions in the Insurance Companies Act. At that time the companies would have liked to have had a few further amendments with respect to investment powers, but those matters were deferred pending consideration of the investment powers of insurance companies, and this year the amendments that are being made follow along the lines of those made in the Insurance Companies Act a few days ago, and also are to tidy up a few other sections that were overlooked in 1947. The representatives of the companies have during the last few weeks been discussing the proposed bill very thoroughly with the department, and the companies are in agreement with the amendments as proposed.

The CHAIRMAN: Has anyone else any remarks he would like to make before we proceed with the bill?

On section 1, shall section 1 carry?

Carried.

On section 2? Shall the section carry?

Carried.

Section 3? Shall the section carry?

Carried.

Section 4? Shall the section carry?

Carried.

Section 5? Shall the section carry?

Carried.

Section 6? Shall the section carry?

Carried.

Section 7? Shall the section carry?

Carried.

Section 8?

Mr. FRASER: Could we have an explanation of this section?

The CHAIRMAN: Mr. MacGregor, would you please supply the answer.

Mr. K. R. MACGREGOR (Associate Superintendent of Insurance): Clause 8 has four clauses. Subclauses 3 and 4 relate to the lending powers of trust companies; subclause 3, relates to unguaranteed trust funds and subclause 4 to guaranteed trust funds. The change made in those subclauses is to make it clear that where a prior lien exists, the loan being made together with the prior lien, shall not exceed 60 per cent of the value of the property. As the subclauses now read the first charge might be ignored.

Looking then at subclause 1, that subclause relates to the investing powers of trust companies with respect to unguaranteed trust funds. The investment powers of trust companies with respect to guaranteed trust funds is dealt with by cross reference. That is why only one clause appears here. The change being made is to bring the investing powers into line with the lending powers expressed in subclauses 3 and 4. Not many mortgages are acquired by purchase or investment. Ordinarily, as you know, they are made by trust companies or financial institutions in the first instance as direct mortgagees. Subclause 1 relates only to the case of the purchase of an existing mortgage. At present that subclause is restricted to first mortgages and is inconsistent with the main lending powers in subclauses 3 and 4.

Subclause 2 relates to so-called "income producing" real estate. It authorizes the investment of guaranteed trust funds to the extent of 5 per cent of the total guaranteed trust funds and follows, in general, the rules for insurance companies prescribed in the Insurance Bill.

Any property being purchased must be leased back to a corporation of "substance", as the explanatory note says, being a corporation with a dividend record good enough to qualify that corporation's debentures or shares as an investment. The revenue under the lease must be sufficient, as in the Insurance Bill, to yield a fair return during the term of the lease and to amortize at least 85 per cent of the investment price during the term of the lease, not however, exceeding thirty years.

Mr. MACDONNELL: I take it that real estate which might come into the company's hands—foreclosures—would not be included?

Mr. MACGREGOR: These sections have no application to foreclosures.

Mr. ADAMSON: Why is the figure 85 per cent the amortization figure?

Mr. MACGREGOR: 85 per cent was chosen because in some of these deals that amount is specified in the lease as a repurchase option at the end of the term. It will also ensure in most cases the complete writing off the building, leaving the other 15 per cent to cover the land.

The CHAIRMAN: Are there any further questions on section 8?

Mr. ASHBOURNE: That section could apply to freehold real estate—

The CHAIRMAN: What subsection are you referring to?

Mr. ASHBOURNE: Page 8—provided the amount does not exceed 60 per cent of the value of the real estate. How is the value ascertained?

Mr. MACGREGOR: Usually, sir, by independent appraisal. The Department's examiners always look for an independent appraisal. In some cases the companies' own officers or employees make appraisals but where there is not a wide margin in the loan the examiners always look for an independent appraisal.

Mr. ADAMSON: I have just one question. Have you any machinery dealing with communities—where there is a proper town plan or a proper loaning restriction in force? I happen to know of one or two communities where there is no plan and it is impossible to get a mortgage at all to build any type of house in that community. In other communities where there is a plan mortgages can be arranged quite simply? Would you like to comment on that? Is there any machinery with regard to that?

Mr. MACGREGOR: There is nothing specific in the Act with reference to that point. The sole discretion and responsibility for making loans rests with the management of each company. The point is not referred to in any way with this Act.

Mr. HELLYER: I wonder if Mr. MacGregor would tell us whether the department appraisal is made at public expense?

Mr. MACGREGOR: Appraisals of properties owned by a company are made at the company's expense and in any case where the Department is of the opinion that a parcel of real estate is carried at an excessive value we may request the company to secure an appraisal—the department names the appraiser, and in every case the company pays the cost.

Mr. HELLYER: It has been my experience that the applicant for the mortgage pays for the appraisal?

Mr. MACGREGOR: That is the rule where a new loan is being obtained. I had in mind appraisals with respect to a property already owned by a trust company.

The CHAIRMAN: Shall section 8 carry?

Carried.

Section 9.

What is "common trusts funds" referred to in this section?

Mr. MACGREGOR: "General" and "common" are synonymous in the context. A "general" or "common" trust fund is a fund in which moneys belonging to various estates and trusts are combined for the purpose of facilitating investment. This clause, of course, permits a combination of trust funds in that manner only if the trust instrument does not otherwise direct; it does not apply if the trust instrument calls for the specific ear-marking of the assets.

The CHAIRMAN: When the funds of a general or common trust fund are invested, if the yield rates vary, how is that pro-rated among the funds which are pooled?

Mr. MACGREGOR: The interest earned by the common fund would be allotted pro rata to the various accounts in the fund in proportion to the book value of the trusts included in the common fund.

The CHAIRMAN: Are there any further questions with respect to section 9? Shall section 9 carry?

Carried.

Section 10.

Mr. FRASER: What was the amount permitted to be carried by stock companies before this 30 per cent of the total issue of the stocks of any corporation? What was the limit before?

Mr. MACGREGOR: It has always been 30 per cent in the case of insurance companies and loan companies; and it was always 30 per cent in the case of trust companies from the beginning in 1914 until the amendments of 1947 when, for some unexplainable reason in the revision of the Act in that year, 20 per cent was written into this section. The change to 30 per cent now merely restores it to what it is in all other comparable Acts and to what it was in this Act until 1947.

Mr. FRASER: With respect to your stipulation to pay dividends on common shares of at least 4 per cent of the average value at which the shares were carried etc. etc., that has to be carried for seven years?

Mr. MACGREGOR: This clause, sir, relates to the investment of the company's own funds. Heretofore, the dividend required was 4 per cent of the par value, in the case of shares of par value, or \$4 per share in the case of shares of no par value, and in each case for seven consecutive years prior to the date of the investment. The change now being made is to bring the test for no par value shares into line with the test for par value shares, being in each case 4 per cent of the average value at which the shares are carried in the issuing corporation's own books. There is no change with respect to shares of par value.

Mr. FRASER: It is simply a change in the terminology or wording?

Mr. MACGREGOR: In substance there is no change in relation to par value shares, but there is a change—

Mr. MACNAUGHTON: This is a more conservative policy than is followed in the United States, generally speaking?

Mr. MACGREGOR: The laws in the United States vary so that it is rather difficult to make a general answer. In some states, common shares are excluded altogether. There would be no change here in the seven year record required or in the basic test of 4 per cent. It is partly to meet the practical situation caused by splits in recent years. The effect is that the \$4 test has become very arbitrary and has ruled out a great many of the very best stocks.

Mr. ADAMSON: It does not mean that the trust company would have to buy stocks yielding 4 per cent?

Mr. MACGREGOR: Not in reference to the price paid for the stock.

Mr. ADAMSON: It means that the test is that the company would have to pay 4 per cent on the value of the stock, of its own common stock which it carries on its books?

Mr. MACGREGOR: That is correct.

Mr. ADAMSON: Do not many companies carry their common stock at a very nominal sum on their books?

Mr. MACGREGOR: It is not possible to change the value easily. Where shares are sold, the whole of the proceeds less a certain margin must be included in the corporation's capital account, and it is not generally possible

to change the amount in the corporation's books without obtaining supplementary letters patent. That applies both in this country and I think I can say in every state of the union, even in one state where incorporation is fairly easy to obtain.

Mr. ADAMSON: Is that Delaware?

Mr. MACGREGOR: Yes.

The CHAIRMAN: Shall Section 10 carry?

Carried.

Section 11 "Acquisition of business of other companies by purchase of shares." Shall section 11 carry?

Carried.

Section 12. Shall section 12 carry?

Carried.

Shall the preamble carry?

Carried.

Shall the title carry?

Carried.

Shall I report the bill as carried?

Carried.

Now, Bill J 10, "An Act to amend the Loan Companies Act."

Section 1.

By Mr. Macdonnell:

Q. Could we have a general word from Mr. Warwick as we did in the case of the former bill today?—A. Mr. Chairman, these two bills are identical in substance and in changes throughout except that there is no counterpart in this bill to the common trust fund section; otherwise it is the same in substance.

The CHAIRMAN: Shall Section 1 carry?

Mr. HELLYER: Is there a case of a head office, or a possible case of a head office being located where there is no daily newspaper?

Mr. MACGREGOR: Would you mind repeating your question, please?

Mr. HELLYER: It say: "...at the place where the head office of the company is situated...." Suppose there is no newspaper at the place where the head office is situated, could publication be made in the nearest newspaper? Is there any definition or reference to that possibility in the Act?

Mr. MACGREGOR: No, sir, there is not. I might say that there are only five loan companies to which this Act applies, and I think that in every case they are located where there is a newspaper published.

Mr. HELLYER: That is of course coincidental in some respects but not necessarily economical. It is possible that one might be so located.

Mr. MACGREGOR: If a company changed its head office, or if a new loan company were incorporated; but there has not been a new loan company incorporated for a good many years, and it may be doubtful whether there will ever be any more of them.

The CHAIRMAN: I think we could safely run that risk.

Mr. ADAMSON: I wonder if we could have a list of those companies for the record? I feel it might be of interest to have them.

Mr. MACGREGOR: The Canada Permanent Mortgage Corporation; the Central Canada Loan and Savings Company; the Eastern Canada Savings and Loan Company; the Huron and Erie Mortgage Corporation; and the International Loan Company.

Mr. ADAMSON: Does not the Canada Permanent Mortgage act as trustees as well?

Mr. MACGREGOR: There are two companies, the Canada Permanent Mortgage Corporation and the Canada Permanent Trust Company. There are two companies.

Mr. ADAMSON: I see. But they have more or less the same directors, do they not?

Mr. MACGREGOR: Yes, but they are entirely separate companies.

Mr. MACNAUGHTON: Publication in the *Canada Gazette* would surely cover any question of there being no local newspaper.

The CHAIRMAN: It says both, "...in one or more newspapers... and in the *Canada Gazette*".

Mr. MACGREGOR: Clause 1 relates only to the case where a new company is being started; the reference is to the provisional directors.

Mr. RILEY: Suppose you wanted to incorporate such a company in a place where there was no newspaper?

The CHAIRMAN: In that case I suppose you would have to establish a newspaper. Shall section 1 carry?

Carried.

Section 2 "President, vice-president, chairman of the board". Shall the section carry?

Carried.

Section 3. "Chairman at meetings of Board". Shall the section carry?

Carried.

Section 4 "Confirmation of by-laws".

Carried.

Mr. HELLYER: Is there anything to prevent the directors from re-making a by-law after the meeting held to ratify it has turned it down?

Mr. MACGREGOR: I do not think so, sir, but I cannot imagine any directors acting in that way and lasting beyond the next annual meeting.

The CHAIRMAN: Shall section 4 carry?

Carried.

Shall section 5 carry?

Carried.

Shall section 6 carry?

Carried.

Shall section 7 carry?

Carried.

Shall section 8 carry?

Mr. ADAMSON: That is exactly the same as the section in the other bill, Bill F.10?

The CHAIRMAN: Right.
Shall the section carry?
Carried.

Shall section 9 carry?
Carried.

Shall section 10 carry?
Carried.

Shall section 11 carry?
Carried.

Shall the preamble carry?

Mr. HELLYER: Mr. Chairman, reverting back to section 10 (c), I just wondered what the limitation is in section 63?

The WITNESS: Section 63 says: "The company shall not (a) lend or advance money upon the security of its own stock; (b) invest in or lend money upon the security of the stock of any other loan company; (c) lend upon the security of or purchase or invest in bills of exchange or promissory notes".

The purpose of paragraph (c) in clause 10 is to set aside, for this specific purpose, the prohibition against purchasing the shares of another loan company.

By Mr. Adamson:

Q. Is there such a thing as there is in insurance companies, an investment trust dealing with trust companies' stock, that you know of? I do not think there is but I just wondered if there were?—A. No, sir.

Q. There is no investment trust dealing in financial institutions?—A. As a shareholder?

Q. Yes.—A. Certain shares of some of our companies are held in trust but I do not know of any investment trust.

Q. In insurance company stocks, there is a special investment trust dealing in nothing else but insurance company stocks and I was wondering whether there was an investment trust dealing in bank stocks?—A. I know of none in reference to trust companies.

The CHAIRMAN: Shall the section carry?
Carried.

Shall the preamble carry?
Carried.

Shall the title carry?
Carried.

Shall I report the bill?
Carried.

Thank you, gentlemen. The meeting is adjourned.
The committee adjourned.

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Banking and Commerce
Standing Committee
1951

SESSION 1951

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HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

CHAIRMAN—MR. HUGHES CLEAVER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

TORQUAY NEGOTIATIONS

TUESDAY, MAY 29, 1951

WITNESSES:

Mr. H. B. McKinnon, Chairman, Canadian Tariff Board;

Dr. C. M. Isbister, Director, International Trade Relations Branch, Department of Trade and Commerce.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1951

ORDERS OF REFERENCE

(Having application to Torquay Negotiations)

FRIDAY, February 16, 1951.

Resolved,—That the following Members do compose the Standing Committee on Banking and Commerce:—

Messieurs

Adamson,	Fournier (<i>Maisonneuve-Rosemont</i>),	Maltais,
Argue,	Fraser,	Maybank,
Arsenault,	Fulford,	McMillan,
Ashbourne,	Fulton,	Picard,
Balcom,	Gingras,	Richard (<i>Gloucester</i>),
Beaudry,	Gour (<i>Russell</i>),	Richard (<i>Ottawa East</i>),
Bennett,	Harkness,	Riley,
Blackmore,	Harris (<i>Danforth</i>),	Sinclair,
Bradette,	Hees,	Smith (<i>Moose Mountain</i>),
Breithaupt,	Hellyer,	Smith (<i>York North</i>),
Brooks,	Helme,	Stewart (<i>Winnipeg North</i>),
Cannon,	Hunter,	Thatcher,
Carroll,	Laing,	Ward,
Cleaver,	Leduc,	Welbourn,
Côté (<i>St. Jean-Iberville-Napierville</i>),	Low,	White (<i>Hastings-Peterborough</i>)—50
Crestohl,	Macdonnell	
Dumas,	(<i>Greenwood</i>),	
Fleming,	Macnaughton,	

(Quorum 15)

Ordered,—That the Standing Committee on Banking and Commerce be empowered to examine and inquire into all such matters and things as may be referred to them by the House; and to report from time to time their observations and opinions thereon; with power to send for persons, papers and records.

Attest.

LEON J. RAYMOND,
Clerk of the House.

THURSDAY, March 1, 1951.

Ordered,—1. That the quorum of the said Committee be reduced from 15 members to 10, and that Standing Order 63(1)(d) be suspended in relation thereto.

2. That permission be granted to the said Committee to sit while the House is sitting.

Attest.

E. R. HOPKINS.
for Clerk of the House.

MONDAY, May 21, 1951.

Ordered,—That the subject matter of the Torquay negotiations, namely, The Final Act of Torquay; the Decisions, Agreeing to Accession; the Torquay Protocol to the General Agreement on Tariffs and Trade; the modifications of the Schedules to the General Agreement on Tariffs and Trade resulting from the Torquay negotiations, and the Declaration on the Continued Application of these Schedules, be referred to the said Committee.

TUESDAY, May 29, 1951.

Ordered,—That the said Committee be empowered to print from day to day such papers and evidence as may be ordered by the Committee, and that Standing Order 64 be suspended in relation thereto.

Attest.

LEON J. RAYMOND,
Clerk of the House.

THURSDAY, March 1, 1951.

The Standing Committee on Banking and Commerce begs leave to present the following as a

FIRST REPORT

Your Committee recommends:

1. That the quorum be reduced from 15 members to 10, and that Standing Order 63 (1) (d) be suspended in relation thereto.

2. That permission be granted to sit while the House is sitting.

All of which is respectfully submitted.

HUGHES CLEAVER,
Chairman.

(NOTE: The Second, Third and Fourth reports deal with Private and Public bills in respect of which no verbatim record of evidence was taken).

TUESDAY, May 29, 1951.

The Standing Committee on Banking and Commerce begs leave to present the following as a

FIFTH REPORT

Your Committee recommends that it be empowered to print from day to day such papers and evidence as may be ordered by the Committee, and that Standing Order 64 be suspended in relation thereto.

All of which is respectfully submitted.

HUGHES CLEAVER,
Chairman.

MINUTES OF PROCEEDINGS

TUESDAY, May 29, 1951.

The Standing Committee on Banking and Commerce met at 11.00 o'clock a.m. Mr. Cleaver, Chairman, presided.

Members present: Adamson, Argue, Balcom, Bennett, Blackmore, Carroll, Crestohl, Fleming, Fraser, Fulford, Fulton, Gour (*Russell*), Harkness, Helme, Hunter, Laing, Low, Macdonnell (*Greenwood*), McMillan, Picard, Richard (*Gloucester*), Richard (*Ottawa East*), Sinclair, Smith (*Moose Mountain*), Smith (*York North*), Thatcher.

In attendance: Mr. Hector B. McKinnon, Chairman of Tariff Board; Mr. W. J. Callaghan, Commissioner of Tariff, Department of Finance; Mr. S. S. Reisman, International Economic Relations Division, Department of Finance; Dr. C. M. Isbister, Director, International Trade Relations Branch, Department of Trade and Commerce; Dr. E. A. Richards, Principal Economist, Department of Agriculture; Mr. H. H. Wright, Department of External Affairs.

On motion of Mr. Bennett:

Resolved,—That the Committee recommend that it be empowered to print from day to day such papers and evidence as may be ordered by the Committee, and that Standing Order 64 be suspended in relation thereto.

On motion of Mr. Sinclair:

Resolved,—That Agenda Committee of six members be appointed by the Chairman.

The Order of Reference of Monday, May 21, 1951, was read by the Clerk.

Copies of the following documents embodying the results of the Torquay Negotiations were distributed, namely:

1. Final Act of Torquay. (Final Act authenticating the results of tariff negotiations concluded at Torquay, beginning September 28, 1950, and ending 21 April, 1951)

2. Decisions Agreeing to Accession. Decision by the Contracting Parties agreeing to the Accession of Austria to the General Agreement on Tariffs and Trade)

3. Torquay Protocol to The General Agreement on Tariffs and Trade.

4. Declaration on the continued application of the schedules to the General Agreement on Tariffs and Trade.

(*See Appendix A*)

Mr. McKinnon was called, made a general statement on the Torquay Negotiations and was questioned thereon.

Dr. Isbister was called, made a statement on the concession received for Canada from other countries by the Torquay Negotiations and was questioned thereon.

At 12.50 o'clock p.m. the Committee adjourned to meet again at 4.00 o'clock p.m., Wednesday, May 30, 1951.

R. J. GRATRIX,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

MAY 29, 1951.

The Standing Committee on Banking and Commerce met this day at 11:00 a.m. The Chairman, Mr. H. Cleaver, presided.

The CHAIRMAN: Gentlemen, we have a quorum. There are two routine motions which should be dealt with first. First, there is a motion to take power to print. Mr. Bennett moves that the committee recommend that it be empowered to print from day to day such papers and evidence as may be ordered by the committee and that Standing Order 64 be suspended in relation thereto. All those in favour please signify? Those opposed, if any?

Carried.

Next we have a motion by Mr. Sinclair who moves that six members be appointed by the chairman as an Agenda Committee. The customary practice is that I receive recommendations for two from the Conservative members of the committee, and one from the other parties. Shall the motion carry?

Carried.

I shall now ask the clerk to read our order of reference.

The CLERK:

MONDAY, May 21, 1951.

Ordered.—That the subject matter of the Torquay negotiations, namely, The Final Act of Torquay; the Decisions Agreeing to Accession; the Torquay Protocol to the General Agreement on Tariffs and Trade; the modifications of the Schedules to the General Agreement on Tariffs and Trade resulting from the Torquay negotiations, and the Declaration on the Continued Application of these Schedules, be referred to the said Committee.

The CHAIRMAN: Gentlemen, at the time the Geneva Trade Agreements were referred to this committee in 1948, the practice that the committee then adopted was to have a general statement from Mr. McKinnon.

Perhaps I should put on the record right here that we have in attendance this morning Mr. Hector B. McKinnon, Chairman of Tariff Board; Mr. S. S. Reisman, International Economic Relations Division, Department of Finance; Mr. W. J. Callaghan, Commissioner of Tariff, Department of Finance; Mr. C. M. Isbister, Director, International Trade Relations Branch, Department of Trade and Commerce; Dr. E. A. Richards, Principal Economist, Department of Agriculture; and Mr. H. H. Wright, Department of External Affairs.

Our practice last time was to have a general statement from Mr. McKinnon which would more or less convey to the committee the nature of our task, and then to hold a meeting of the agenda committee to decide on procedure. Is that procedure satisfactory to this committee in regard to the Torquay Agreement?

Mr. MACDONNELL: It seems very satisfactory to me, Mr. Chairman.

The CHAIRMAN: Mr. McKinnon?

Mr. FLEMING: Will Mr. McKinnon and the other officials be available to meet with the committee from time to time?

The CHAIRMAN: There is no question about that.

Mr. MACDONNELL: How should we pronounce Torquay?

The CHAIRMAN: We shall ask Mr. McKinnon to give it to us.

Mr. MCKINNON: The Torquay people call it "Torkee".

Mr. FLEMING: That pronunciation will be official in the committee from now on.

The CHAIRMAN: Would you care to make your statement on the agreement, Mr. McKinnon?

Mr. Hector B. McKinnon, Chairman of the Tariff Board called:

The WITNESS: Mr. Chairman and gentlemen: Since you ask me to make a general statement, I cannot help but think of the remark of a famous French philosopher who said on one occasion that "All generalizations are incorrect, including this one". Since general statements have already been put on *Hansard* by both the Minister of Finance and the Minister of Trade and Commerce, it is a little difficult to make a statement of a very general nature without repeating, to some extent at least, the remarks that are already on *Hansard*.

However, looking around the committee I notice the faces of quite a number of the members who were on Banking and Commerce Committee when we discussed the Geneva Agreements in 1948; and it seems to me that probably the best introduction, since the committee wishes to have something in the nature of a general statement, would be a few remarks to show, if possible, the similarity between Geneva and Torquay, or, contrariwise, the dissimilarity between the two, because the two sets of negotiations were not exactly parallel.

In doing that, Mr. Chairman, I shall try to avoid, as far as I can, anything that was put on *Hansard* by the ministers I referred to. I am sure that most of us who were here when we met in 1948 for several weeks felt, at the end of the sessions, that members of the Committee knew about as much concerning the agreements as did the officials.

You will recall that when we went to Geneva in 1947 we went to a meeting of some 23 countries called under the auspices of the United Nations. We went there with two primary purposes: The first of these was to formulate a charter which would govern the operations of an international trade organization under the auspices of the United Nations; the second was to do the actual work of conducting the first round of tariff negotiations under the so-called charter.

Before we left Geneva, however, everyone recognized that the charter, which perhaps was somewhat grandiose in its conception, would go on from Geneva to a meeting at Havana, and that at Havana there would be representatives of many countries who were not at Geneva. And therefore there might be among them kings who knew not Joseph, and who would not exactly like the charter we had roughed out.

We also felt quite definitely that the charter might take quite a long time in being ratified by the various countries, and that in the process of ratification it might have a rather rough passage.

Feeling that to be the case, before we left Geneva, Mr. Chairman, we extracted from the voluminous so-called charter some of the most important and vital considerations relating to commercial policy, and we embalmed them in a miniature charter. I have always described it that way. It is not exactly accurate, but it is fairly descriptive. We embalmed in a separate instrument those few vital principles.

Mr. MACDONNELL: Is that word "embalmed" to be taken literally?

The WITNESS: Not exactly. I shall come back to it.

We embalmed those few vital principles in a small document which for want of a better name—and it is a clumsy one—we called the General Agreement, because it was done by general agreement. It arose out of the desire among the representatives of the 23 countries who met there in anticipation of a charter being approved some time in the future, to create a smaller charter which would serve as a set of governing rules for the carrying out and the implementing of the tariff negotiations which accompanied its making.

Might I recapitulate: We went to Geneva to do two things: First to formulate this charter, the first of its kind, and second, to carry out tariff negotiations; and third, as a precaution, to insert some of the most vital principles of the charter in an abridged edition that we called the General Agreement.

You will remember, sirs, that it was to last for three years, the three year term being from the 1st of January 1948 until the end of December, 1950.

Now might I switch to Torquay. The three years have passed. Thirty-four countries met instead of twenty-three, and we went this time with three—not two—primary and most important objectives.

The first was, if possible, to extend for another period of three years the General Agreement that had been adopted at Geneva.

The second was, if possible, to enlarge some of the tariff schedules which had been negotiated at Geneva. In this connection, I am thinking particularly of the agreements which Canada negotiated with the United States, France, Benelux, and some of the more important commercial countries in the world.

The third objective was, if possible, to negotiate for the first time with some other countries which had not been represented at Geneva, but which had manifested a desire to join the "club", if I may use that word. In other words, we want to negotiate with what are called the acceding countries in contradistinction to the contracting parties.

We had a difficult situation to deal with arising out of article 28 of the General Agreement, which is the article that recognized that the tariff arrangements made at Geneva were for a period of three years firm, and that at the end of three years any country might withdraw concessions which it had granted at Geneva or modify them if in its own opinion it had reason for doing so. I merely cite that in passing because it was the legal right of any country represented at Torquay to re-negotiate an item that had been previously negotiated.

Now to recapitulate the Torquay situation: 34 countries instead of 23; the first objective, extending the Geneva schedules for another three years, pretty much in toto. The second, enlarging existing schedules where possible; and the third, to make new agreements with acceding countries; and lastly, to deal with any difficult situation that might arise in respect of a country exercising its right under article 28 to modify or withdraw concessions.

Now a few words as to the results at Geneva, not attempting to appraise them, because that is for the committee, but merely to cite them under some general headings.

In the first place, we were able to confirm an impression we had in our own minds at Geneva as to the extreme importance of the miniature charter known as the General Agreement. By the time we reached Torquay it was common belief that there would not be a charter. While we were at Torquay, (as I think most of the members know) prominent officials in the United States government publicly stated that the charter would not be proceeded with. That meant simply that the General Agreement which had been made at Geneva took on the character of being rather more than merely ancillary to the charter; it had become, in effect, the only agreement. Therefore we faced, not more than we had anticipated but more than many might have anticipated, we faced the

fact that it was now the cornerstone of the whole structure. There would be no charter and there would probably be no international trade organization, and the sole instrument that was binding these tariff schedules together was the so-called General Agreement.

There was only one defection at Torquay from the list of countries which had negotiated at Geneva. That was Lebanon. I need only say the word to show you that there was no substantial change of mind among the participating countries. Lebanon was the only country which signified that it was not carrying on any longer as a member under the General Agreement.

We were able at Torquay to extend for another period of three years our agreement with every country with which we had successfully negotiated at Geneva. I think sometimes that is overlooked by the public, although it was in essence the primary purpose for which we went to Torquay—to prevent the lapsing of the agreements which had been achieved at Geneva. It is easy to say in a sentence that we were to secure such extension, but, as a matter of fact, it is the greatest achievement of Torquay, that 34 countries were willing to carry on for another firm period of three years what had been agreed at Geneva.

Our second purpose was if possible to enlarge the agreement we had made at Geneva with some ten or twelve of the most important trading nations of the world. We were successful, in that we enlarged our existing agreements with ten of the contracting parties. The most important of these, commercially, were of course, the United States, France, Italy, Sweden, Norway, and Denmark.

In addition we were successful in our third objective, namely, that of attempting to make pacts or agreements with the countries which desired to associate themselves with the General Agreement. In each case we were successful and the six acceding countries will become members when they are voted upon in due course, provided they receive the vote of two-thirds of the existing members. They will then be full-fledged contracting parties. Anticipating their full status, we have negotiated successfully with the six countries which wish to join, they being Austria, Germany, Korea, Peru, The Philippines, and Turkey.

The final objective was that of negotiating or renegotiating items, under article 28 of the Agreement and in this we were successful. Since certain countries wanted to withdraw concessions given to Canada at Geneva, we met with their negotiations and discussed the proposed withdrawals. In each instance, we re-negotiated and accepted compensation for any items that were withdrawn. Dr. Isbister can furnish more detail later. I may merely repeat that, in addition to extending the Geneva agreements for three years, and in addition to enlarging existing tariff arrangements with 10 countries, and in addition to making successful agreements with six new acceding countries, we emerged practically unscathed from the re-negotiation of items under article 28.

Mr. MACDONNELL: Who negotiated for Korea?

The WITNESS: The head of the delegation was the Korean ambassador in London; different officials of the embassy were present during the actual negotiations.

The net result of Torquay is that what had been done at Geneva is extended, firm, for another three years; quite a number of new countries have been added to the membership of the club; enlarged schedules have resulted, covering a very considerable sector of commodities not covered at Geneva; and lastly, but not least important, the tariff treatment of thousands of commodities is stabilized for a further period of three years. I submit that when 34 countries have signed (or are in the process of signing) an obligation to carry on an agreed commercial policy for a further period of three years, thus giving a degree of stabilization to international commercial policy and tariff treatment, that that is of considerable significance at the present time.

I do not know that at the moment you wish I should go into the particular agreements in detail, Mr. Chairman; that could follow at the will of the committee. I might, however, say a brief word about one or two of the most important. As regards the United States, we appreciate that Torquay might afford the last opportunity for Canada to negotiate a commercial policy arrangement with the United States under the legislation which has been used by that country up to the present time. I refer to the Trade Agreements Act, which we knew was due to expire on the 12th of next month. These were grounds for the belief that if the Act were to be extended at all by the United States Congress, (a) it might not be extended for three years, (b) the Act itself might be considerably tightened and made more restrictive, and (c) the climate, if I may use that word, in Congress, might on the whole not be too sympathetic to a continuation of the principles enshrined in the Reciprocal Trade Agreements Act. Therefore, feeling that we might not get another "crack" at the United States under existing legislation and that the new legislation might be such that we could not make much use of it, the delegation set out deliberately to exhaust the powers of the United States negotiators. You see, sir, Canada had negotiated with the United States in 1935, again in 1938, again in 1947, and was again so doing at Torquay in 1950. That means that in a period of some fifteen years there would have been four full-scale negotiations with the United States and we knew that we were getting pretty close to scraping the bottom of the barrel. Therefore, we said "Let us get whatever we can get while the going is good, and thus exhaust the powers of their negotiators". And that is just about what we have done. There is very little left now on which Canada could successfully negotiate a substantial commercial policy agreement with the United States under their existing legislation.

We made a very special effort with France for many reasons, not least the fact of the sentimental tie between France and French-speaking Canada, and I think we were particularly successful in our negotiations of a larger agreement with France.

The same might be said, perhaps with less emphasis, about the Scandinavian countries and some of the smaller countries. Of the six new acceding countries, the most important, of course, from a commercial point of view, is Western Germany. The Germans sent to their first negotiation an extremely competent and large delegation. We set out to get as substantial an agreement with Germany as we could, since it seemed to us that Western Germany might conceivably, with France, be the key to the whole European commercial-policy situation. That does not mean to say that some of the other acceding countries are not important. I think that everyone was glad to welcome Turkey into the club and it was our duty to see that the Turks paid their dues before they joined as members. We got a number of concessions from Turkey and in return did not have to give a great deal.

There is one other aspect of the subject that may come up, Mr. Chairman, and I shall say, only one or two sentences about it. A good deal has been made in the press—and I do not mean the press of Canada alone, but the press of the United States and Great Britain—of the fact that the United Kingdom, Australia, South Africa and New Zealand failed to reach agreements with the United States. Everyone knows, of course, that the matter of the treatment of preferences was a basic consideration with those four countries. The position of the Canadian delegation as regards the impairment or elimination of preferences I might put, I think, in one sentence: Our policy was to accommodate to the utmost of our ability the other components of the commonwealth in their attempts to make agreements with the United States or any other country. When we were asked if we were prepared to see a margin of preference that we enjoyed in one or other of these commonwealth areas reduced in order that the commonwealth area concerned might make an agreement with the United States or any other

country, in no single case did we decline. In a vary few cases, we intimated that the commodity in question was an important one in our trade; that we would like to see it dealt with as delicately as possible; and that we hoped that in return we might share in counter-concessions; but that, nevertheless, the other party was free to go ahead and make the best agreement it possibly could. In the event, no one of the four was able to reach an agreement with the United States. Of course, it is not for me to comment on that.

I hope I have covered what was done at Torquay in general terms. I hope too that I have not repeated too much that was said in the House by the ministers. If I may at this point I shall introduce, in case some members of the committee do not know them, my colleagues. On my right is Dr. C. M. Isbister, Director, International Trade Relations Branch, Department of Trade and Commerce, who as the committee proceeds will give more detailed information regarding concessions secured by Canada in other countries; Mr. W. J. Callaghan, Commissioner of Tariff, Department of Finance, who will give detailed information regarding concessions given by Canada in return for what we got abroad; Dr. A. E. Richards, Principal Economist, Department of Agriculture, who was with us an expert adviser in agricultural matters; and, in the absence of Mr. J. J. Deutsch, Mr. S. S. Reisman, of the Department of Finance who can testify regarding the general principles of the now defunct charter and the still-alive agreement; and Mr. Hume Wright of the Department of External Affairs who was with us as Secretary of the Delegation. I hope I have not transgressed on your time and I now now turn myself and my colleagues over to the committee for questioning.

The CHAIRMAN: Thank you Mr. McKinnon. It is the wish of the committee to hear Dr. Isbister next?

Agreed.

Mr. MACDONNELL: Could I ask just one question? You did not mention Annecy?

The WITNESS: That was an inadvertency in a sense, in that Annecy was a small negotiation; it changed the picture so little and effected the schedules so little, I did not elaborate upon it.

By Mr. Blackmore:

Q. Just what position then does Havana occupy in the general picture?—A. Havana had to do entirely with the charter as there were no tariff negotiations at Havana. But the charter that was formulated at Geneva among the twenty-three countries went on to Havana and was discussed in a much more larger group of countries and considerably amended and as I say, apparently has now died; at least it has never been ratified by any country.

Q. So we might just as well cancel Havana out for practical purposes.—A. That is right, and I had done so, in the sense that I was proceeding from one tariff negotiation to the other.

Mr. MACDONNELL: There are two points which for myself I think I could become a little more enlightened on. Would Mr. McKinnon perhaps just say a word or two as to why he thinks the charter was not adopted? What was the main reason? Was it a general change of world view or was it unexpected developments of international affairs, or was it a change of attitude in the United States, or what was it that has brought this about? Secondly, would Mr. McKinnon just say a word or two about the details—I think I am familiar with them but I would like to be clear on them—of the legislation in the United States, which, as he says, is really fully availed of now.

Mr. MCKINNON: Regarding the first question, Mr. Macdonnell, I should really defer to Mr. Reisman, who is a greater authority on the details of the

charter and who might say a word or two. As I said, in starting, the charter was rather grandiose and indeed perhaps the whole conception of an international trade organization functioning under a world charter under the auspices of the United Nations may have been conceived a little too soon after the last war. It may have been that it was just a little ahead of public opinion throughout the world. The charter that emerged from Geneva was, in my opinion, not too bad; but when it got to Havana, it encountered a great deal of log rolling, the formation of regional groups and pressure groups which led inevitably to this result: the charter was watered down in one degree after another; escape clauses were cluttered all through it; it became such that, in most countries the bad features appeared in highlight rather than the good features. I do not think myself, sir, that there has come about a definitive change in public opinion in the United States but rather that the United States has come to believe that there might be a great deal of difficulty in having the charter adopted by the required number of countries as long as it contains some of the provisions that were inserted at Havana. Secondly, it may be that the United States has come to feel, as certainly I have personally, that the General Agreement, the miniature charter, is in itself good enough to carry on with. It has not got within it every provision that was in the charter but it has the basic ones. It may be that the feeling in the United States is that they could ratify the General Agreement but probably could not get ratification of the charter. That brings me, Mr. Macdonnell, to your second question as to the legislation under which we negotiated with the United States at Geneva and Torquay. The legislation in question is called the Reciprocal Trade Agreements Act. If my memory is correct it was put on the statutes in 1934, during the regime of Mr. Cordell Hull. It bestowed upon the President certain tariff-making powers. It conferred upon the President the right to negotiate, through his officers, with other countries and to grant reductions in customs duties by fifty per cent. It expressly said, however, he would not have the power to remove a commodity from the dutiable to the free list. In other words, the President could reduce an existing duty by fifty per cent but he could not put a product on the free list. There were, of course, many other provisions.

MR. MACDONNELL: Did you say by fifty per cent or up to fifty per cent?

THE WITNESS: By fifty per cent. If the duty was sixty per cent, it was possible to reduce it to thirty per cent. Canada took advantage of these powers in 1935 and again in 1938. At the time of Geneva, the United States was sponsoring very vigorously the charter and urging other countries to indulge in tariff negotiations and their legislation was liberalized, in that the President, instead of being able to reduce the scheduled rates by fifty per cent, as had been his authority before that, was empowered to reduce by fifty per cent the rates of duty applying on January 1, 1945. That change made it possible for other countries to negotiate two or even three reductions in duty on the one commodity, as in fact we did in some instances.

The Reciprocal Trade Agreements Act expires on the 12th of June. There are proposed amendments before the House and before the Senate. In both Houses rather restrictive measures have been introduced into the legislation. One of these is that the Act shall be extended only for two years, instead of three. Another is that the United States Tariff Commission will be empowered to indicate to the President how far, in the opinion of the Commission, he or his negotiators should go in reducing tariffs by agreement. This is commonly referred to as the "peril-point" provision. If I remember correctly, the President would not be bound to accept the recommendation of the Tariff Commission should he receive one but, should he not do so, he must forward to Congress his reasons for disregarding it. A third, and perhaps the important, proposed amendment from the standpoint of other countries is one relating to agricultural products which are subject to a price-support program in the United States.

The importance of it lies in this: If, under the Agricultural Adjustment Act, the United States is providing floor prices or support prices, of one kind or another, a concession granted by a trade agreement appears to have had precedence over the provisions of the relevant domestic legislation. According to published information, the effects of a proposed amending clause might be that, as regards certain agricultural products, the provisions of the domestic legislation would, or could, over-ride the provisions of a trade agreement. In short, that would be just about the reverse of the situation at present. The Senate committee, I believe, in reporting the bill, has recognized that this new requirement should not be too binding upon the President in point of time and that it might be extremely difficult and indeed impracticable to apply such a provision to trade agreements already in force. I have read that the amending provision is a good deal watered down in wording and I understand that it may be some time before the precise legislation emerges.

Mr. HARKNESS: Mr. Chairman, I would just like to ask one question. Have all agreements made—as far as the United States is concerned—at Geneva, Torquay, and so forth, been made under this presidential authority, under this Act?

The WITNESS: That is right.

Mr. HARKNESS: Congress has not at any time completely removed any duty?

The WITNESS: These agreements have all been under the Reciprocal Trade Agreements Act.

Mr. FULTON: These concessions made by the President do not require subsequent ratification by Congress?

The WITNESS: That is right, sir. They are brought into effect by presidential proclamation.

By Mr. Fraser:

Q. Just before you sit down, Mr. McKinnon, do they not print a list of these commodities they contemplate changing in the United States, in order to allow people to make complaints within three or six months? And then after the complaints are received the board sits on them before they are presented to the President?—A. That is right. In the past they have published what they called a—

Q. White paper?—A. Yes, a “statutory list” of the commodities they contemplate negotiating with any country; those are made the subject of public hearings, and interested parties—importers, exporters, etc.—may appear at those public hearings and give their views. Should the Act be amended in accordance with certain proposals, the procedure may be more restrictive in that there will be the intermediate step, that the tariff commission may recommend to the president how far in their opinion he ought to go, if at all.

By Mr. Blackmore:

Q. Would it be fair to put it this way. In general the United States now seems to be manoeuvring herself into a position in which she can adopt such a measure as the Fordney-McCumber Tariff Act—springing a thing like that suddenly on us without warning?—A. Not in general, Mr. Blackmore; but I suppose it is a fair inference that if they amend the legislation to say that no agreement, no provision in an agreement, can override the legislation—which means, therefore, that the legislation can override the agreement—then, in respect of certain commodities, they would have power undoubtedly to raise rates. There is no question as to that.

Q. The trends are definitely in that direction in the United States?—A. Well, I rather hesitate to say that, Mr. Blackmore, because I cannot seriously contemplate the United States violating or denouncing an existing agreement with Canada let us say. It is the case, in that connection, that these trade agreements on Canada's part have been brought into operation by order in council. A few of the items have been inserted in the tariff by budgets, but by far the greater bulk are effective and operate only by order in council. Therefore, if the United States or any other country for that matter, were to do such an unthinkable thing as to violate flagrantly an agreement with us in respect of even one important commodity the country in question would put itself in a position where it would be very easy for Canada to deal with the situation—in that it would merely mean the cancellation of an order in council. It would not require, in most instances, any action by parliament. I do not think and I am not prepared to think that the trend in the United States is in the way you suggest. There are no doubt pressure groups working, and at the moment the Act is being revised in a rather restricted form, but it still has to go to the compromise committee of the two houses.

Q. My remark was intended to take the form of a question—I do not know whether I put it just right?—A. Yes, I understood.

Q. Would I be safe in making this assumption: that the indications would seem to be that the United States is undergoing a recession of public opinion from the strict doctrine of non-discrimination which we heard so much about during World War II?—A. No, I believe the United States is as firmly wedded as ever, Mr. Blackmore, to the principle of non-discrimination. I do honestly believe that. To what extent proposed amendments to their enabling legislation will make it possible for them to be more restrictive in practice is as I say, difficult to tell until we see the legislation.

By Mr. Harkness:

Q. Do I understand from what you said if this present Act goes through this compromise committee the United States would be in a position where they could abrogate any particular tariff agreement by what you might call unilateral action—merely by Congress passing an Act which applied domestically?—A. I think it might work out a little differently in that, in any future negotiations, if the Act goes through with those restrictive provisions, their negotiators would not exceed the limit set by the domestic legislation.

Q. What about agreements that are in effect?—A. As regards those in effect I would not prophesy. My own feeling is that even if legislation is put through in a much more restrictive form, it would be most improbable that a concession we have bargained for and paid for would be withdrawn by the United States. Now, I have to give you that as a personal opinion; it is purely speculation on my part.

Q. I take it from what you said it is improbable that it would be done but it would be possible under this legislation?—A. If the new legislation goes through there is no question about it.

The CHAIRMAN: But I understood you to say that if any such unexpected move should be made by the United States, Canada is in a position to take appropriate action to protect her interests?

The WITNESS: Yes, and more than that, no such move would be made, I think, in respect of anything covered by existing agreements because the rates of duty are all bound. Now, it would be unthinkable to my mind that they would just act. There would be prior consultation, unquestionably. If, as a result of domestic policy, they felt they had to amend in some degree a concession given, I think in every case they would be prepared to offer compensation in some

form or other perhaps on some other commodity. Would you agree with that, Mr. Reisman. It would never be merely action?

Mr. REISMAN: No, and the only point I can think of other than what you have already said, Mr. McKinnon, is that the United States has in fact undertaken these very solemn international obligations. Quite apart from what their domestic legislation states, should they be required to take action, they would either have to amend their international obligations or to violate them.

Mr. HARKNESS: What you mean by "amend" is "renegotiate"?

The WITNESS: They might renegotiate.

Mr. REISMAN: Yes, if it involved a tariff item. If it involved a commercial policy matter they would have to propose an amendment to the present agreement which they have undertaken. As Mr. McKinnon says it is unlikely they would put themselves in a position of violating the agreement because other countries could take retaliatory action. As to the new domestic legislation, we do not at this stage know what the legislation is going to look like. They certainly have not made any proposals up to this time seeking to amend the obligations which they have undertaken under the Geneva agreement.

The WITNESS: And as I say, Mr. Reisman, even the powers that different groups in the two houses are proposing are so worded in the two drafts as to leave it still very much in the air. The latest drafts I have seen would appear to leave still a great measure of discretion with the president.

Mr. FULFORD: There is no danger of what was really a disaster in Canada when the Smoot-Hawley tariff trouble came up twenty years ago. In the last twenty years public opinion has changed considerably. At that time there were Canadians who were saying that we would have no truck or traffic with the Yankees. We have come a long way in our thinking since those days.

The WITNESS: The United States at Torquay did sign all these concessions for another three years and I think that would be a primary consideration in the minds of her statesmen and officials, rather than powers they might have in an amended Act.

Mr. LAING: Did they not in effect authorize the negotiators to speak for their government, as you spoke for the Canadian government?

The WITNESS: Oh, yes, Mr. Laing, authority had to be given to them to do so. Other countries, too, are tied as much as we are, for another firm period of three years. And it is not inconceivable that at the end of three years the life of the Agreement will be further extended.

By Mr. Adamson:

Q. I would just like to ask one question. I gather these agreements coming under the heading of an Act in the United States merely require a simple majority of Congress, whereas the Geneva Agreement or the Geneva Pact or Charter was a treaty and ratification would require a two-thirds majority of the Senate?—A. You mean, had the charter gone ahead at all?

Q. Had the charter gone ahead at all it would have been considered as a treaty and a two-thirds majority would have to be obtained?—A. I think so.

Q. But these can be ratified just by a simple majority?—A. What is being done now is by presidential action. It does not go to the Congress at all.

Mr. FULTON: Would Mr. McKinnon complete the picture by outlining for us the procedure under which these same concessions in agreements are put into effect in Canada, so that we can understand how firmly we are bound and what we would have to do to follow the procedure that some members have suggested might be followed by the States. Would you do that just to complete the other side of the picture?

The WITNESS: We will in due course, Mr. Fulton, come to the four instruments that resulted from Torquay, and that are named in the schedule. At Torquay Canada undertook to extend the existing agreements unimpaired for another three years. She also enlarged a number of existing agreements, and made some new ones. Now, we are committed to those and they will be brought into force by order in council, presumably on the 6th of June.

By Mr. Sinclair:

Q. Under section 11 of the Customs Tariff Act?—A. Yes.

Q. That is parliament's authority?—A. That is right. Section 11 of the Customs Tariff empowers the Governor in Council to make reductions or give concessions in return for value received. That is the authority that has been used up to now for bringing into force these various agreements.

Q. Is the authority of the president to make these 50 per cent reductions a similar authority or can he reduce them without reference to Congress?—A. Unilaterally?

Q. Like our customs bill before the House—where we make reductions in tariff without any concessions from other countries?—A. You mean can the President do that?

Q. Yes?—A. No, I do not think that he can.

Q. His power is an exact duplicate of that which our cabinet has under section 11, except that our cabinet is not limited to 50 per cent?—A. No, our cabinet does not have that limitation, but the President has

By Mr. Fraser:

Q. Is there not a six months' period?—A. Heretofore, the Act has been renewed, each time, for three years. This time one Committee has suggested that it be passed for only two years.

Q. The president cannot make any change right out of the hat? He has to have a waiting period? Is there not a waiting period?—A. In the new Act as written?

Q. Yes?—A. I really have not been over the new Act carefully. It came before Congress when I was in Torquay and since I have been back I have only glanced at it.

Mr. FULTON: Well even under our system, even though we have not ratified the parent documents—the Geneva Agreement or whatever has come out of Torquay—it is still primarily open to us, and in fact it is done, that the individual agreements on tariff are applied by order in council under section 11 of the Customs Tariff Act?

Mr. SINCLAIR: Under section 11 of the Customs Tariff Act.

By Mr. Fulton:

Q. And can be removed by order in council?—A. I am coming to that.

Q. Can they be altered by order in council, even if we ratified them in the Geneva Agreement or the agreement arrived at in Torquay?—A. You mean if we ratified them in the existing agreements, including Torquay?

Q. Yes?—A. And your question would be, then, could the duty be raised?

Q. Yes. or could an order in council be passed then varying the tariff rates which had been applied by order in council prior to ratification?—A. They could not be increased, Mr. Fulton, because we are bound against increasing them.

Mr. MACDONNELL: Could a decrease be withdrawn?

The WITNESS: No, that would be violating the agreement.

By Mr. Fulton:

Q. If we negotiated let us say a 10 per cent increase in the importation of glass ash trays then that is brought into effect I understand you to say by order in council?—A. You are skipping one stage. The new figure, the lower rate, is included in a scheduled agreement, if that is what you mean?

Q. Yes?—A. And brought into effect by order in council.

Q. If we ratify the new agreement which includes ipso facto the schedules, the position would be we could not vary that tariff rate by order in council?—A. That is right, unless for unilateral reasons you wanted to vary it downward. That would be giving a greater concession, unilaterally.

Q. Yes, then the Cabinet has still the authority to reduce tariffs by order in council?—A. That is something circumscribed, in that Cabinet's power to reduce duties by order in council is restricted to materials used in further manufacturing. The Cabinet could not do so on the commodity you have mentioned.

Mr. FLEMING: I think it might be helpful to members of the committee if section 11 of the Customs Tariff Act were put on the record at this point.

The CHAIRMAN: Does the committee agree?

Agreed.

The WITNESS: Would you wish me to read it, Mr. Fleming?

Mr. FLEMING: Yes.

The WITNESS: "The Governor in Council may by order in council make such reductions of duties on goods imported into Canada from any other country or countries as may be deemed reasonable by way of compensation for concessions granted by any such country."

By Mr. Fleming:

Q. The position at the present time is this is it not? The Canadian parliament has not been called upon at any time to take any legislative action, or action by legislation with respect to any of these agreements, even starting with Geneva?—A. No, I think that is true.

Q. So everything that has been done has been done by order in council under the authority of existing legislation, particularly section 11 of the Customs Tariff Act. The Torquay agreements do not contemplate any legislative requirement on the part of the Canadian parliament?—A. No, but you will remember, Mr. Fleming, that at Geneva Canada undertook to do certain things; and, in respect of things other than tariff rates, to apply that agreement to the extent not inconsistent with existing legislation.

Q. Quite, but it is all within the limit permitted by existing legislation. One thinks, for instance, of some of these things which Canada undertook to do by article 5 at Geneva, which turned out to be not within the jurisdiction of the parliament but belonged to the legislatures of the provinces. As I understand the Torquay Agreement constitutionally the position has not changed?—A. No, that is right.

Q. That is done at Torquay. It could be brought into effect simply by Order in Council.—A. Pursuant to the powers of Section 11.

Q. Of the Customs Tariff Act.—A. That is right.

Mr. FULTON: And I presume we would have to admit that we are in a much better negotiating position particularly so long as the other countries have not ratified, if we leave it that way, than by ratifying the various agreements.

The WITNESS: That might be a happy and fortuitous circumstance. If anything happened which would make Canada want to retaliate, such course would not require the approval of parliament.

Mr. FLEMING: Are you saying that it is an advantage?

The WITNESS: No, I was not saying that it is an advantage; but, so long as no other country has formally ratified, we are probably in a fortunate position in that these agreements are only provisionally applied. I do not argue that it is desirable. It would probably be far better if everybody ratified it. That would probably make it more regular.

The CHAIRMAN: Until the others get ready to ratify it, there is no hurry about it.

The WITNESS: The only other countries which have ratified Geneva are the United Kingdom and Australia, and the latter, I believe, ratified it subject to ratification by the United States.

Mr. FLEMING: In that case, might it not be done by a resolution rather than by a statute?

The WITNESS: I imagine it was done by a resolution of the House.

Mr. FLEMING: The agreement at Geneva was not a fixed agreement embodied in a statute in any case.

The WITNESS: No, not in a statute.

Mr. FLEMING: Or in the United Kingdom?

The WITNESS: No. I think it was a resolution approving the agreement, and that is as far as it went.

The CHAIRMAN: Would the committee now care to have the general picture completed and to hear from Mr. Isbister?

Mr. CARROLL: What is the function of this committee, Mr. Chairman? Is it to make a report to parliament? We have nothing to do with the agreements which are before us. Is it to be a study club?

The CHAIRMAN: I believe that if you will read the Prime Minister's motion you will get the answer there. My understanding is that the reference to this committee was made so that Members of Parliament might have an opportunity of obtaining the fullest possible information in regard to what has taken place.

Mr. MACDONNELL: It is educational.

Mr. CARROLL: It is an educational set-up?

The CHAIRMAN: I put it on a lot higher plane than that.

Mr. MACDONNELL: Higher?

Mr. FRASER: Is there anything higher than education?

The CHAIRMAN: I think it was anticipated by the government that Members of the House of Commons would be interested in learning what happened and why.

Mr. ADAMSON: We are not to make a report.

The CHAIRMAN: I was anticipating that after the hearing of the evidence the committee might wish to call we would make a report similar to the report which was made on the Geneva Trade Agreement. That was a simple report to the House of all the information which the committee obtained. I shall read the report that was made on the last occasion.

Mr. FRASER: Is it a short one?

The CHAIRMAN: It is not long. The report recites the order of reference.

Mr. MACDONNELL: What is the date of it?

The CHAIRMAN: June 2, 1948. It recites the order of reference. Paragraph 2 recites the witnesses who were called before the committee. Paragraph 3 recites the representations that were made by the different bodies asking to be

heard by the committee. And paragraph 4 reported to the House with a copy of the Minutes of Proceedings and Evidence adduced, which was tabled with the report.

Mr. FLEMING: I think Mr. Carroll has done a good service to this committee in raising that question because while I do not want to anticipate now any discussion which might occur later, I think it might be helpful to us if you, Mr. Chairman, as chairman of the committee, indicated what we are working toward.

The question arose during the discussion in the House as to the making of a recommendation. What we did in 1948 was to pass on to the House the evidence we received. There was nothing more to it than that. You will recall the discussion in the House.

The CHAIRMAN: On the 21st of May.

Mr. FLEMING: About the extent of the powers of the committee, and if it had any power to make a recommendation. I said there was no power to make a recommendation. I said this material was referred to us in effect for study, but we were not called upon to make any recommendation to the House in regard to it.

The CHAIRMAN: We are not asked to make any recommendation. We have no power to change the agreements; but as to the other proposition, namely: in regard to a recommendation, I think that is entirely in the hands of the committee.

Mr. FLEMING: You think if the committee is so advised, it could make a recommendation?

The CHAIRMAN: I think it is entirely in our hands if, as a result of a study of the matter which is referred to it, this committee wants to make a recommendation. I do not see anything to prevent it.

Mr. FRASER: Could the committee hear witnesses who might feel that the agreements made were not right?

The CHAIRMAN: The general order of reference to this committee reads as follows:

That the Standing Committee on Banking and Commerce be empowered to examine and inquire into all such matters and things as may be referred to them by the House; and to report from time to time their observations and opinions thereon, with power to send for persons, papers and records.

Mr. FLEMING: We could if we wished invite representations and submissions of views on the part of other than the officials?

The CHAIRMAN: As I understand it we have the power to call for persons, papers and records, and to report from time to time our observations and opinions thereon.

Mr. FLEMING: That is a matter for consideration by the Steering Committee.

The CHAIRMAN: And as far as I am concerned, I want to say immediately that this inquiry will be as wide open and as thorough as the members of the committee want it to be.

Mr. BALCOM: If there is an educational feature to this committee, might I ask the witness if Lebanon dropped out of the agreement for purely economic reasons or for other reasons?

The WITNESS: I do not know. All I know is that we were merely notified one day by the Secretary General that Lebanon had severed her connection. I might say that the schedules which Lebanon entered into with some of the countries at Geneva were very restricted and covered very few commodities. My own impression would be that probably it was done on purely economic grounds.

Mr. MACDONNELL: I am sorry to say that I am already lagging behind the class. I would like to ask one question. I thought Mr. McKinnon and one or two others suggested that if and when we signed a general agreement on tariff and trade we thereby tied our hands to an extent we are not tied merely by making ad hoc and individual agreements with the nations at Torquay. Is that correct?—A. As regards rates of duty, Mr. Macdonnell, included in the schedules, those are signed and are effective for the three years; but as regards some other articles of the General Agreement—

Q. For example— —A. I think I am correct in stating Canada has not yet fully—

Q. Could you give us a sample of one of those so that one could understand what the significance would be.—A. Well, the prohibition of used cars. We have a prohibition on the importation of used cars. Strictly speaking under the provisions of the general agreement, if parliament had ratified the agreement and it were fully operative we could not prohibit the importation of used cars.

Q. But as far as tariffs are concerned.—A. It doesn't apply.

Q. I understood you to say, Mr. McKinnon under section 11 of the customs tariff we could make unilateral reductions that were for value received, or did I misunderstand you there?—A. I said that if the Governor in Council is acting under section 11, he is doing so in return for value received, but that is not to say that he could not reduce a rate for domestic reasons.

Mr. FLEMING: On the point, Mr. Chairman, we were discussing earlier, has any order in council been passed yet by the Canadian government to bring into effect any of the Torquay agreements?

The WITNESS: I am sort of ex officio in these matters. I was sent to Torquay because of my age and, shall I say, wickedness? I have nothing to do with—

Mr. FULFORD: Experience.

The WITNESS: The order in council would be prepared by Mr. Callaghan.

Mr. CALLAGHAN: It is being drafted today and will be presented tomorrow. It has to be presented before June 6.

Mr. FLEMING: When that is passed, Mr. Chairman, we must have regard to it in this committee to see whether it brings the Torquay Agreements fully into effect or does so only on a modified basis as was done with the Geneva agreements. Just to give the committee some information as to the extent to which Geneva was brought into effect, I think I recall a statement being made in the House by one of the ministers some time ago that as far as items were concerned the Geneva agreements were brought into effect with respect to about half of the items contemplated in the original agreement.

The WITNESS: Do you mean brought into operation?

Mr. FLEMING: Yes.—A. I would say it was brought into operation in respect of every tariff item.

Q. Then, you say it is in full effect as to all the tariff items?—A. Yes. The other illustration I gave was the prohibition against the importation of used cars.

Q. Or you could have mentioned article 5.—A. Yes, I could have thought of that, too.

Mr. SINCLAIR: In your answer to Mr. Macdonnell you said you could reduce tariff rates unilaterally, but that of course requires parliamentary authority?

The WITNESS: Except for materials for use in manufacture.

By Mr. Fleming:

Q. Apart from the question of tariff rates which you fully cleared up, are there any provisions of the Geneva Agreement which have not been brought into effect which could have been brought into effect merely by order in council.—

A. I do not know of any, sir, and anything in the Geneva Agreement that has not been brought fully into effect is in that status because, to bring it into effect, would bring it into conflict with existing legislation; therefore, legislation would be required. That is a round about answer.

Q. No, I think that is clear. In other words, to the extent to which the Governor in Council is empowered to implement the Geneva Agreements the Governor in Council has fully done so.—A. That is right, sir, to my knowledge.

Q. So that anything further in the way of implementation of Geneva would require legislation on the part of parliament.—A. That is my view. I am not a lawyer but I think that is the case.

Mr. MACDONNELL: Just before we leave this, you have given us an illustration in the case of used cars of one of the aspects of the general agreements which deals with matters other than tariff. Without going into a lot of detail would you say that there were other features in the Geneva Agreement of very considerable importance which were not covered, if they could have been covered by an adoption of the agreements, or would that have been proper for us to do it unless everybody else did it.

The WITNESS: I think the last remark you made is highly pertinent, Mr. Macdonnell. You will remember, sir, that we did go ahead—in the spring of 1949, I guess it was—and revised our Customs Act to bring it into conformity with Geneva. There we were, in a sense, taking a step somewhat ahead of the others, because we had signed the Geneva Agreement. But because our Customs Act in some very small detail was not entirely in conformity with the Geneva principles regarding valuation for duties the Customs Act was amended in parliament. Now, some other countries, I think it is fair to say, have not done a similar thing.

Q. Would our changes correspond to the administrative changes which have been discussed so much in the United States of late and have never been made?—A. Ours went a little bit further than that; they were substantive changes. The United States has not yet passed its Customs Simplification Bill which it is required to do under Geneva. Within the past year, as Dr. Isbister will tell you later, there has been a very great improvement in respect of administration at the ports. In other words, they appear to be observing the spirit of the Geneva Agreement in an admirable manner but they have not yet carried it into the letter of the law.

Mr. THATCHER: How would your ban on margarine comply with the Geneva Agreements? Does that fit in?

Mr. FULTON: What ban?

Mr. SINCLAIR: The importation of margarine.

The WITNESS: I do not want to get into deep water on this. Although I am nearing the retirement age, I am still only a civil servant. After we came back from Geneva, my memory is that the whole margarine situation was referred to the courts and the decision of the courts was that because of certain domestic circumstances and legislation it was quite competent for Canada to continue to prohibit the importation of margarine. Now, that was a court decision and was acted upon and beyond that I do not feel competent to comment.

Mr. ADAMSON: Is that the court at The Hague?

The WITNESS: No, that was right here.

Mr. ADAMSON: The Supreme Court.

The CHAIRMAN: It is now twenty-five minutes after twelve. If the committee would like to complete the general picture before we adjourn at one o'clock, I believe we should hear Mr. Isbister now.

Agreed.

Mr. FLEMING: We can hardly hope to complete the picture today.

The CHAIRMAN: No, but I think it will be helpful if we hear Mr. Isbister now.

Mr. C. M. Isbister, Director, International Trade Relations Branch, Department of Trade and Commerce, called:

The WITNESS: I shall retain my seat with your permission, while I make a few remarks. I have been called on several times this morning and each time Mr. McKinnon has been asked several more times to add to his most comprehensive statement. I came here, Mr. Chairman, simply to be of any possible assistance to this committee and without a prepared statement of any kind. My remarks at this time will, therefore, be very brief indeed. The Minister of Trade and Commerce has described in the House of Commons some of the principal concessions which were obtained for Canada from other countries in the Torquay negotiations. For me to summarize at this time the important concessions we received from other countries would be simply to repeat what is already in *Hansard*.

As the principal negotiator for the Trade and Commerce Department at Torquay, I was responsible for negotiating the concessions received from other countries for the benefit of Canadian exporters. I am wondering what I may say at this time and it seems to me that the most helpful thing would be to describe the preparations undertaken in advance of Torquay. To tell this will illustrate very well the relationship which the Canadian business community and exporters in particular have already had to the negotiations. I think this information will have a bearing on some of the questions which were asked of Mr. McKinnon.

Sometime prior to Torquay, while preparations were being made in my own Department of Trade and Commerce, and in other government departments, widespread publicity was given to Canadian exporters that tariff negotiations would take place, giving the date on which they would be undertaken. The result was that anyone interested in exporting to other countries, desiring to obtain a reduction of tariff in the other country which would benefit the sales of his products abroad, was given an opportunity to make his interest known to the Department of Trade and Commerce. This was done so that the most effective possible effort could be made to obtain concessions of benefit to Canadian exporters.

A large number of companies and individuals took advantage of this public notice. A number of letters were received and briefs were filed with us. A number of exporters took advantage of the opportunity to come to Ottawa to tell us of the tariff problems they found in other countries. I should add that in the Department of Trade and Commerce there is a small unit known as the Foreign Tariffs section, where tariff specialists attempt at all times to follow developments in the tariff systems of other countries. They keep in touch with the problems of Canadian exporters who are attempting to sell over tariff restrictions and import restrictions encountered in other parts of the world. When we went to Torquay, therefore, we were briefed in advance to the maximum extent possible, on the points of view and desires of Canadian exporters. We had done all we could to find out what reductions in the tariffs of other countries would be of genuine assistance to Canadian exporters.

The procedure followed in the Torquay negotiations, without discussing its legal details, but in simple words, was that in advance of the negotiations participating countries sent one another lists of tariff concessions they hoped to receive during the negotiations. In some cases, of course, such lists of requests went beyond what countries actually hoped to receive. These lists of requests were extensive and were exchanged in advance.

The requests submitted by Canada to other countries at the opening of the Torquay negotiations were the result of the consultations which I have described, carried on to the maximum extent possible with Canadian exporting companies and exporting interests through channels which were open to us. In advance of going to Torquay these requests were scrutinized carefully and in detail by senior officials of various government departments and by the Minister of Trade and Commerce. I think it may be concluded that the Canadian negotiators were rather well instructed with regard to the objectives which they should pursue in obtaining concessions from other countries.

Now, Mr. Chairman, I shall not volunteer any remarks on the concessions we actually received from other countries, except that we are prepared to provide any information which is required by the members of the committee, in any form that is required, and to the full extent of our ability, dealing with countries which have given concessions to us, or the export products on which concessions were received, or according to the location in Canada of the manufacture of export products on which concessions were received.

I need only say negotiations of the kind carried on at Torquay are intricate and detailed, the results covering hundreds and thousands of detailed items. We shall attempt to summarize these from any point of view which may be of interest to members of the committee, coming as close as we can to the desires that are expressed here.

Mr. MACDONNELL: You could do this to give us a picture of your technique. Take some commodity and indicate in a general way what your discussions were before you went, what your objective was with regard to that commodity, and you could perhaps indicate to us your technique there. I presume you met your opposite number of the country where you hoped to get that commodity in. It just occurred to me if you traced some commodity where you got a substantial concession it would give us a picture.

Mr. SINCLAIR: Take Douglas fir plywood, for example.

The CHAIRMAN: Could you get something on that, Mr. McKinnon?

The WITNESS: Someone mentioned the item of Douglas fir plywood. It was one of the most important concessions we received. Other members of the delegation there had a good deal to do with it as well and they will correct me as I go along, but let me tell the story of Douglas fir plywood.

In the first place civil servants did not need to be instructed that a concession on Douglas fir plywood would be a most important one to be obtained if possible. The United States duty on Douglas fir plywood stood at 40 per cent ad valorem. Concessions had been made on earlier occasions by the United States on other types of plywood but this single item stood at what would have to be regarded in normal times as a prohibitive level for this kind of thing. This year Douglas fir plywood could cross into the United States at a 40 per cent tariff. I suppose it could cross at a higher rate because that kind of material is tremendously in demand. Normally, however, 40 per cent is a prohibitive tariff on this important material which has been used increasingly in construction and in many lines of manufacture. It is not only an improved form in which to use lumber but increasingly a substitute for certain metals.

Here was a product, then, most important to British Columbia in which market possibilities existed overseas but for which the demands of the American market were closed off in normal times by a high tariff. At Annecy it had been

hoped that the United States might possibly negotiate Douglas fir plywood with some other country. The United States did not negotiate with Canada at Ancey but the United States did negotiate with other producers of plywood. At Ancey, however, while the United States did make further reductions on other types of plywood, Douglas fir plywood was again exempted from the lists of their concessions.

This one type of plywood remained in the United States tariff with a very high rate. It was perfectly obvious that this was one of the remaining concessions which Mr. McKinnon referred to in the United States tariff, when he said that we attempted at Torquay to exhaust the powers of the United States administration under the reciprocal trade agreement act.

A fifty per cent reduction from forty per cent leaves twenty per cent. Our objective, therefore, was to get the United States' negotiators to make a maximum concession on this item. Representations were made to us in advance of Torquay by word of mouth, by people connected with the plywood industry both in trade associations and in various companies which produce plywood. They approached me and they approached other officials of my department to urge upon them the desirability of obtaining this particular concession. This item was included in the earliest list of requests which was addressed to the United States.

That takes us up to the commencement of the Torquay negotiations. I could not begin to give the committee a daily diary of discussions relating to plywood during the six months of negotiations. The formal procedure followed in tariff negotiations, however, involved the United States making an official response to our request with respect to this item. Their first response was negative.

It is fair to say that this was an item to which the Canadian delegation attached the greatest importance. We made it clear to the United States negotiators from the beginning that we were interested not only in receiving a concession with respect to Douglas fir plywood, but it was essential to receive a maximum concession. By the time the Torquay negotiations were finally concluded, the United States did give us a maximum concession which will come into effect on June 6. I hope that is a complete answer to your question or to the points in which you are interested.

Mr. SINCLAIR: When you say to them that we want a concession for plywood, do they come back and say to you: We will give it to you if you give us a concession on one specific item? Is it done on an item against item trade basis, or is it done by means of bulk trade?

The WITNESS: In the process of exchanging important concessions back and forth, we would not normally proceed to trade on an item by item basis, but rather by an evaluation of the relative importance of lists back and forth.

Mr. FLEMING: I think you made very clear the steps you took in advance of the meetings to consult the interests of Canadian exporters?

The WITNESS: Yes.

Mr. FLEMING: Could you enlarge on that to indicate what response you got from Canadian exporters, and what volume of representations were made as to their desires and can you give us some idea of the number of items they covered, and how the agreements compared in the number of items on which you reached agreement with those on which you were asked to negotiate and seek concessions, and the details of the steps which you took to consult the interests of Canadian producers who might be affected by the agreements in the domestic market.

The WITNESS: With respect to the first part of your question I regret to say that I cannot possibly answer it, and I shall explain why.

If all of those interested had written letters to us in advance of Torquay, I could count the letters and report the total. The fact of the matter is that we did receive a number of letters, and many of those letters were in the form of briefs.

Mr. FLEMING: Can you give us some idea of them?

The WITNESS: Well, the total number might have been, at a guess, possibly 200. But that is just a guess.

Mr. MACDONNELL: 200 concerning plywood?

The WITNESS: No, no. I understood you were interested in the whole picture.

Mr. FLEMING: Yes.

The WITNESS: I suppose we probably received a couple of hundred letters, but that is just a guess.

A very large number of exporters are continuously in touch with my department, the Department of Trade and Commerce, by word of mouth. We have commodity officers who specialize in various fields: I received in advance of Torquay, in addition to letters, a large number of statements of opinion from individuals, through this channel as well as statements of opinions which were retailed to me by our own commodity officers who had consulted them.

Mr. FLEMING: They come to you as memoranda?

The WITNESS: Sometimes in the form of memoranda, and sometimes by telephone. A lot of exporters come to Ottawa in person. Preparations were going on over a period of months; and over a period of months a great number of exporters would come to Ottawa. I could not tell you how many of them got in touch with me by telephone while they were here.

In addition a large number of letters had been filed with the Canadian delegation prior to the earlier Geneva negotiations in 1947 and we had the advantage of the information which was compiled at that time. So, you see, I really cannot give you a simple answer to the question of how many exporters directed requests to us. But I can say that to my own knowledge there was no important field of export with which we were not in touch in some fashion or other.

Mr. SINCLAIR: What about Members of Parliament themselves writing to you on behalf of industries in their own ridings?

The WITNESS: There were a number of cases where we received letters from Members of Parliament with respect to industries in their own ridings, in respect of export firms which were interested in obtaining concessions from other countries.

Mr. MACDONNELL: Would not certain organizations such as the C.M.A. and the Chambers of Commerce give you comprehensive memoranda on the whole situation?

Mr. FLEMING: Or the Canadian Exporters Association?

The WITNESS: Yes, although there were not as many of them received in advance of Torquay as there were in advance of Geneva. The associations were not as active in their requests with reference to the whole picture prior to Torquay.

Mr. LAING: In respect to the Canadian Horticultural Council, I think there has been a tremendous misunderstanding with respect to apples. Were they consulted, and did they make representations?

The WITNESS: We received representation from the Horticultural Council in advance that they would like to obtain concessions on apples in a number of countries.

Mr. FRASER: Perhaps Mr. Callaghan would have some letters as well.

The WITNESS: Yes, and that leads me to the second part of Mr. Fleming's question, where he went on to ask about what steps we took to consult people who were interested.

Mr. FLEMING: The second point of my question was as to how the articles or commodities on which you reached agreements compared in the aggregate with those on which you were asked by various exporters to reach an agreement to get some concession. Could you give us some idea?

The WITNESS: With respect to the largest single negotiation which we carried on, the negotiation with the United States, all I can do in answering that question is to repeat what Mr. McKinnon has already said and that is to say we really did feel after Torquay that we had pretty well obtained all the important concessions which were still in the power of the United States administration to grant. In other words, a certain number of requests were made of us by Canadian exporters to do something for them which was not in the power of the United States administration to do.

Mr. MCKINNON: Such as a request for free entry.

Mr. FLEMING: Taking a pretty broad view of it, say we were asked to negotiate on so many hundreds of items that involved in terms of Canadian exports last year so many millions of dollars, and we did arrive at agreements in respect to a named number of items which represented millions of dollars, could you give us some conception of the scope within which you were working so far as requests from Canadian purchasers and exporters were concerned.

The WITNESS: Well, it is a pretty difficult question to deal with. It is a fair question to ask but I must answer it in the same terms as I answered the earlier question in regard to the number of requests that were made to us. For example, take the chemical industry in which products all have multi-syllabic names which no one but a technician could understand. I must confess that there are very few of these that I could identify if I saw them. In the case of chemicals we consulted people who were technically competent to be in touch with the companies. The services of one of the senior officials of the National Research Council were obtained in preparing for Torquay. This official travelled around to visit the Canadian chemical companies and returned with a condensed report of the results of all his technical discussions with the different companies. Now, I could not begin to tell you how many chemical items were brought back for consideration by this official. It was necessary then to study the United States tariff in relation to this very long list to find out how many of these requests could possibly be implemented at Torquay. In the end we did obtain, practically speaking, all of the concessions which were in the power of the United States to grant to Canada in the field of chemicals. Representations made to us by industry were part of a process and there is no point in that process where I can count the requests or suggestions made. I can report we did everything in our power to cover the field.

Mr. FLEMING: Probably before we leave that we will go on to the third question.

Mr. MACDONNELL: Before that may I ask a question. Could you give us an idea of the expected results in trade from these negotiations, I mean the results in terms of money. Do not answer that now but keep it in mind.

Mr. FLEMING: The third question was the converse case, were attempts made to consult the interests of Canadian producers whose domestic sales might be affected by the proposed reduction in tariffs?

The WITNESS: Yes, but my responsibility was solely in the export side of this picture, and Mr. Callaghan and Mr. McKinnon—

The CHAIRMAN: When we come to hear Mr. Callaghan your question will then be in order, Mr. Fleming.

By the Chairman:

Q. Now, just two or three questions on Douglas fir plywood before you finish. What is the competitive product with Douglas fir plywood in the United States?—A. Douglas fir plywood; other types of plywood, and other building materials. Douglas fir plywood is produced in the United States.

Q. Do the manufacturers of plywood in Canada believe that with the fifty per cent reduction, that is the reduction in tariff from forty per cent to twenty per cent, in normal times that will be of value? Will they be able to compete in normal times, in other words?—A. This question could be answered, sir, by others at this table more competently than by myself but I can tell you that responsible people from British Columbia have told us since Torquay, that this is probably the best single concession which has ever been received from the United States for British Columbia. We have had a number of letters and telephone calls from people in the lumber and plywood industry in British Columbia which I can only describe as jubilant.

Mr. MCKINNON: May I say a word here? I think part of the context of that Mr. Isbister has obscured a little, out of his own modesty. We told the United States from the start that we had to have the maximum reduction on Douglas fir plywood, among other things. It was only on the day before we concluded negotiations with the United States that we got the concession. It was long withheld. They told us it had gone back to Washington several times, that it was politically impossible. We had to do this—what every horse trader has to do in his time, whether he has his boss with him or not—we had to say “then, there is no agreement”. Douglas fir plywood was one of the items in respect of which—up to the eleventh hour—we said there must be a concession and that we expected fifty per cent.

Mr. SINCLAIR: I ask this question because that concession is of very tremendous importance in British Columbia. I remember two years ago some of the more prominent timber people in British Columbia were quite bitter at the fact that we had not had people in the trade with our delegation at Geneva, because, as they said, at Geneva there were people from the timber trade in Washington and Oregon who were there keeping the U.S. delegation appraised of the fact they were not going to make any concession on Douglas fir plywood. I would like to know if at Torquay there were any of these experts, shall I say, assisting the United States delegation?

Mr. FULFORD: Pressure groups?

Mr. SINCLAIR: Well, Congressmen as well as their ordinary delegates?

Mr. ADAMSON: Interested groups?

Mr. SINCLAIR: Yes.

Mr. MCKINNON: I think there was much less of that at Torquay than at Geneva in respect of every country, Mr. Sinclair. Of course that is particularly accounted for by this: the oftener the pitcher goes to the well the less water remains to be drawn. From our point of view as we successfully completed negotiation after negotiation, it was naturally felt by many here—and in the United States—that there remained only a certain number of things and it was vital that Canada go after those. However, to answer the question, I think my colleagues would agree that there were far fewer unofficial delegates, if I may put it that way, at Torquay than at Geneva.

Mr. MACDONNELL: They did not feel the need for members of parliament there?

Mr. SINCLAIR: In the other delegations how many people from the political side of government were with the delegations at Torquay?

Mr. McKINNON: Well, of course, if by the political side you mean someone with the rank of minister or a member of the House—

Mr. SINCLAIR: A member of the House or a minister?

Mr. McKINNON: Well, the United States delegation was headed, for example, by the Honourable Willard Thorpe, Assistant Secretary of State.

Mr. SINCLAIR: But that is on the civil service side?

Mr. McKINNON: No, he is a Minister.

Mr. SINCLAIR: Oh, yes.

Mr. McKINNON: I did not see any members of Congress at all.

Mr. ADAMSON: I have just one more question on plywood. You considered plywood was important and if you had not made an agreement on plywood then all of the agreements would not have been made?

Mr. SINCLAIR: No, no, he said he was horse trading.

The CHAIRMAN: No.

Mr. MACDONNELL: No.

Mr. McKINNON: I did not mean "plywood or nothing"; rather "we want to make an agreement but it has got to include plywood".

Mr. ADAMSON: Well let us get that cleared up. You confuse me. It had to include plywood and if it did not include plywood you were not inclined to make that agreement?

Mr. SINCLAIR: He said that he was horse trading.

The CHAIRMAN: I suggest that you read the record, Mr. Adamson. I think the witness has gone quite as far as it is fair to ask him to go.

Mr. McKINNON: It is a matter of horse trading and up to the eleventh hour you have to take a very stiff line.

Mr. CRESTOHL: I have just one question.

The CHAIRMAN: Well, I want to come to the matter of when we shall meet again.

Mr. CRESTOHL: It will only take a minute. I think it was Dr. Isbister who said these agreements come into effect on June 6 and I was curious about your statement that the United States is rather cagey in applying the letter of the law rather than the spirit of the law. Does that agreement come into effect according to the letter or to the spirit of the law?

Mr. McKINNON: All of these agreements regarding schedules containing rates of duty will come into effect on the 6th of June by executive action, in the United States as well as here, but they will be in toto.

The CHAIRMAN: Can we reach agreement in regard to our further meetings? We found on the last occasion that if we were to have any pleasure and continuity in this inquiry we practically had to meet morning, afternoon and evening. Now does the committee want to do that this time?

Mr. HARKNESS: Certainly not in the evening.

Mr. SINCLAIR: Quite a few of the members here are also members of the Public Accounts Committee which is meeting regularly and will be meeting more often during the next week. External Affairs is also meeting and it is pretty difficult.

The CHAIRMAN: I just want the feeling of the committee.

Mr. SINCLAIR: If we meet twice a week that is about all we can do.

Mr. MACDONNELL: I think as far as we are concerned we are at the endurance point when it come to finding members.

The CHAIRMAN: Public Accounts meet this afternoon and Thursday morning. Wednesday is caucus day. That would almost indicate that Thursday afternoon is the only other time we might meet this week. Are we agreed on that?

Some Hon. MEMBERS: Agreed.

Mr. FULFORD: What is the matter with Wednesday afternoon?

Mr. FRASER: Yes.

The CHAIRMAN: Wednesday or Thursday?

Some Hon. MEMBERS: Wednesday afternoon.

The CHAIRMAN: All right.

APPENDIX A

DOCUMENTS EMBODYING THE RESULTS OF THE TORQUAY
NEGOTIATIONS

FINAL ACT OF TORQUAY

*Final Act Authenticating the Results of Tariff Negotiations Concluded at
Torquay, Beginning September 28, 1950, and Ending April 21, 1951*

The Contracting Parties to the General Agreement on Tariffs and Trade by an intersessional decision of October 30, 1949 decided to arrange for tariff negotiations to begin in September 1950.

The negotiations, which opened at Torquay on September 28, 1950 and concluded on 21 April, 1951, were of four categories:

- (a) Negotiations directed towards the accession of countries which had not become contracting parties as a result of the 1947 and 1949 negotiations;
- (b) Negotiations between governments which participated in the Geneva and Annecy conferences without concluding bilateral negotiations and wished to enter into tariff negotiations during 1950;
- (c) Negotiations between governments which concluded tariff negotiations at Geneva or Annecy and desired to enter into negotiations for new or additional reciprocal tariff concessions;
- (d) Negotiations between governments with a view to the making of adjustments in their concessions negotiated at Geneva or Annecy.

As a result of these negotiations, and other negotiations entered into pursuant to procedures established by the Contracting Parties, the following instruments were prepared:

- (a) Decisions agreeing to the accession of the acceding governments (Annex I);
- (b) Torquay Protocol to the General Agreement on Tariffs and Trade (Annex II);
- (c) Declaration on the continued application of the schedules to the General Agreement on Tariffs and Trade (Annex III).

The texts of these instruments in the English and French languages are annexed hereto, and are hereby authenticated, and it is hereby certified that, in each case where a schedule in Annex A to the annexed Torquay Protocol provides treatment for any product less favourable than is provided for the same product in the existing schedule to the General Agreement, appropriate action has been taken to enable effect to be given to such a change.

In Witness Whereof, the duly authorized representatives of the governments participating in the negotiations have subscribed their names below.

Done at Torquay, in a single copy, in the English and French languages, both texts authentic, this twenty-first day of April, one thousand nine hundred and fifty-one.

NOTE: There will follow place for the signature of the participating governments.

ANNEX I

DECISIONS-AGREEING TO ACCESSION

Decision by the CONTRACTING PARTIES Agreeing to the Accession of Austria to the General Agreement on Tariffs and Trade

The CONTRACTING PARTIES,

HAVING REGARD to the results of the negotiations directed toward the accession of Austria to the General Agreement on Tariffs and Trade,

DECIDE in accordance with Article XXXIII of the General Agreement,

1. The CONTRACTING PARTIES agree to the accession of the Government of Austria to the General Agreement on the terms relevant to such accession which are provided for in the Torquay Protocol to the General Agreement.
2. This Decision shall be open for signature by contracting parties at Torquay on 21 April 1951 and at the Headquarters of the United Nations from 7 May 1951 until 20 June 1951.
3. This Decision shall constitute a decision of the CONTRACTING PARTIES taken on 21 June 1951, provided that it shall then have been signed by two-thirds of the governments which are at that time contracting parties.
4. The Secretary-General of the United Nations shall promptly furnish a notification of each signature to this Decision to each Member of of the United Nations, to each other government which participated in the United Nations Conference on Trade and Employment, and to any other interested government.

NOTE: Annex I will contain a separate identical decision, *mutatis mutandis*, for each other acceding government except Germany. Paragraph 1 of the decision for Germany follows. Each decision will contain place for signature by the contracting parties.

Paragraph 1 of the Decision for the Accession of the Federal Republic of Germany:

- 1 (a) The CONTRACTING PARTIES agree to the accession of the Government of the Federal Republic of Germany to the General Agreement on the terms relevant to such accession which are provided for in the Torquay Protocol to the General Agreement.
- (b) The CONTRACTING PARTIES further agree that, notwithstanding the provisions of Article I of the General Agreement, the accession of the Government of the Federal Republic of Germany will not require any modification in the present arrangements for, or status of, intra-German trade in goods originating within Germany.
- (c) In according the benefits of the General Agreement to goods exported from the Federal Republic of Germany, the contracting parties will make no distinction between goods originating in the territory of the Federal Republic and those originating in the Western sectors of Berlin.
- (d) The provisions of subparagraph 1 (b) and (c) above may be reconsidered at any time at the request of any contracting party, and any decision taken by the CONTRACTING PARTIES in this respect will be taken by a majority of the votes cast.

ANNEX II

TORQUAY PROTOCOL TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The Governments which are contracting parties to the General Agreement on Tariffs and Trade on the date of this Protocol (hereinafter called "the present contracting parties" and "the General Agreement" respectively), the Governments of the Republic of Austria, the Federal Republic of Germany, the Republic of Korea, Peru, the Republic of the Philippines and the Republic of Turkey, (hereinafter called "the acceding governments"), and the Oriental Republic of Uruguay, which may accede to the General Agreement under the Annecy Protocol of Terms of Accession in accordance with the Decision of the CONTRACTING PARTIES of November 9, 1950 (hereinafter called "Uruguay"),

HAVING REGARD to the results of the negotiations concluded at Torquay,

HAVE through their representatives agreed as follows:

1. (a) Each of the acceding governments, with respect to the accession of which a decision under Article XXXIII of the General Agreement has been taken shall, upon the entry into force of this Protocol with respect to it pursuant to paragraph 11, apply provisionally and subject to the provisions of this Protocol:

(i) Parts I and III of the General Agreement, and

(ii) Part II of the General Agreement to the fullest extent not inconsistent with its legislation existing on the date of this Protocol.

(b) The obligations incorporated in paragraph 1 of Article I of the General Agreement by reference to Article III thereof and those incorporated in paragraph 2 (b) of Article II by reference to Article VI shall be considered as falling within Part II of the General Agreement for the purpose of this paragraph.

(c) For the purposes of the General Agreement, the schedules contained in Annex B upon their entry into force pursuant to paragraph 11 shall be regarded as schedules to the General Agreement relating to acceding governments.

2. Upon the entry into force of this Protocol with respect to each acceding government, pursuant to paragraph 11 hereof, that government shall become a contracting party as defined in Article XXXII of the General Agreement.

3. (a) On the thirtieth day following the day upon which this Protocol shall have been signed by a present contracting party or Uruguay, or on the forty-sixth day following the date of this Protocol, whichever is the later, the schedule relating to that contracting party or Uruguay contained in Annex A shall enter into force.

(b) Portions of the schedules contained in Annex A which are the result of negotiations and agreement pursuant to paragraph 1 of Article XXVIII of the General Agreement may be made effective, by agreement of the negotiating parties, after the date of this Protocol and prior to the date determined pursuant to subparagraph (a), *Provided* that

(i) compensatory adjustments negotiated in return for withdrawals of or reductions in concessions contained in the existing schedules to the General Agreement may not be made effective later than such withdrawals or reductions, and

(ii) any government proposing to make a portion of its schedule effective pursuant to this subparagraph shall give the Secretary-General of the United Nations at least thirty days' notice of the date on which the proposed action will become effective.

(c) Portions of the schedules contained in Annex A which are the result of negotiations and agreement pursuant to procedures established by the Contracting Parties may be made effective, by agreement of the negotiating parties, prior to the date determined pursuant to subparagraph (a), *Provided* that compensatory adjustments negotiated in return for withdrawals of or reductions in concessions contained in the existing schedules to the General Agreement may not be made effective later than such withdrawals or reductions.

(d) When a schedule has entered into force pursuant to subparagraph (a) or when any portion of a schedule has been made effective pursuant to subparagraph (b) or (c), such schedule, or portion (together with all provisions of the schedule in Annex A relevant thereto), shall become a schedule to the General Agreement relating to the government in question. In the case of any difference between the treatment provided for a product in a schedule contained in Annex A, and the treatment provided for the same product in an existing schedule to the General Agreement relating to the same government, the treatment provided in the schedule contained in Annex A shall prevail when and so long as effect is given thereto pursuant to the provisions of this Protocol.

(e) For the purposes of this Protocol, the "existing schedules to the General Agreement" shall mean the schedules annexed to the General Agreement and to the Annecy Protocol of Terms of Accession, as modified by: (i) the provisions of any protocol relating to their rectification or modification, or (ii) any other action, which was effective on September 28, 1950, taken pursuant to a specific provision of the General Agreement or to procedures established by the CONTRACTING PARTIES.

4. Any government which has signed this Protocol shall be free at any time to withhold or to withdraw in whole or in part any concession, provided for in the appropriate schedule annexed to this Protocol, in respect of which such government determines that it was initially negotiated with a government which has not signed this Protocol, *Provided* that

- (i) the government withholding or withdrawing in whole or in part any such concession shall give notice to all contracting parties, acceding governments and Uruguay within thirty days after the date of such withholding or withdrawal and, upon request, shall consult with any contracting party having a substantial interest in a product involved;
- (ii) any such withholding or withdrawal shall cease to be effective on the thirtieth day following the day upon which the government with which it was initially negotiated signs this Protocol; and
- (iii) this paragraph shall not authorize the withdrawal or withholding of any compensatory adjustments resulting from any negotiations and agreement described in subparagraphs (b) and (c) of paragraph 3, unless all withdrawals of or reductions in concessions contained in the existing schedules to the General Agreement, in return for which such compensatory adjustments were negotiated, are withheld or withdrawn for the same period of time.

5. (a) In each case in which Article II of the General Agreement refers to the date of the Agreement, the applicable date in respect of the schedules annexed to this Protocol shall be the date of this Protocol.

(b) In each case in which paragraph 6 of Article V, subparagraph 4 (d) of Article VII, and subparagraph 3(c) of Article X of the General Agreement refer the date of that Agreement, the applicable date in respect of the schedules government shall be March 24, 1948.

(c) In the case of the references in paragraph 11 of Article XVIII of the General Agreement to September 1, 1947 and October 10, 1947, the applicable dates in respect to each acceding government shall be November 1, 1950 and January 15, 1951, respectively.

(d) In the case of the reference in paragraph 1 of Article XXVIII of the General Agreement to January 1, 1951, the applicable date in respect of the schedules annexed to this Protocol shall be January 1, 1954.

6. (a) The text of paragraph 1 of Article XXVIII of the General Agreement shall be amended by the deletion of "On or after January 1, 1951" and the substitution therefor of "On or after January 1, 1954".

(b) Signature of this Protocol in accordance with paragraph 10 shall be deemed to constitute the deposit of an instrument of acceptance of the amendment set forth in subparagraph (a), within the meaning of Article XXX, paragraph 2, of the General Agreement.

(c) The amendment set forth in subparagraph (a) shall become effective, in accordance with Article XXX, paragraph 1, of the General Agreement, when this Protocol shall have been signed by two-thirds of the governments which are at that time contracting parties.

(d) Notwithstanding the provisions of subparagraph (c), the amendment set forth in subparagraph (a) shall not become effective in respect of concessions initially negotiated by a contracting party which has signed this Protocol with a contracting party which has not signed either this Protocol or the Declaration on the Continued Application of the Schedules of the General Agreement annexed to the Final Act signed at Torquay on 21 April 1951.

7. (a) The provisions of the General Agreement to be applied by an acceding government shall be those contained in the text annexed to the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment as rectified, amended, supplemented, or otherwise modified by such of the following instruments:

Protocol Modifying Certain Provisions, signed at Havana on March 24, 1948
Special Protocol Relating to Article XXIV signed at Havana on March 24, 1948

Special Protocol Modifying Article XIV signed at Havana on March 24, 1948
Protocol of Rectifications signed at Havana on March 24, 1948

Protocol Modifying Part I and Article XXIX, signed at Geneva on September 14, 1948

Protocol Modifying Part II and Article XXVI, signed at Geneva on September 14, 1948

Second Protocol of Rectifications, signed at Geneva, on September 14, 1948

Declaration of May 9, 1949 relating to Section E of Schedule XIX

Declaration of August 11, 1949, relating to Section B of Schedule XIX

Protocol Modifying Article XXVI, signed at Annecy on August 13, 1949

Protocol Replacing Schedule I (Australia) signed at Annecy on August 13, 1949

Protocol Replacing Schedule VI (Ceylon) signed at Annecy on August 13, 1949

First Protocol of Modifications, signed at Annecy on August 13, 1949

Third Protocol of Rectifications, signed at Annecy on August 13, 1949

Annecy Protocol of Terms of Accession, signed at Annecy on October 10, 1949

Fourth Protocol of Rectifications, signed at Geneva on April 3, 1950

Fifth Protocol of Rectifications, signed at Torquay on December 16, 1950

and by such other instruments drawn up by the Contracting Parties, as may have become effective by the day on which this Protocol enters into force for that government.

(b) Signature of this Protocol by an acceding government shall constitute an acceptance of the rectifications, amendments, supplementations or other modifications of the General Agreement by such of the instruments named in subparagraph (a), and by such other instruments drawn up by the Contracting Parties and open for acceptance, as may not have become effective by the date on which this Protocol enters into force for that government, such acceptance to take effect upon the same day as the signature of this Protocol by that government.

(c) Without prejudice to any action taken by a contracting party under Article XXXV, signature of this Protocol by a contracting party or Uruguay shall constitute, except as it may specify otherwise at the time of signature, an acceptance of the rectifications, amendments, supplementations or other modifications of the General Agreement by such of the instruments named in subparagraph (a) and by such other instruments drawn up by the Contracting Parties and open for acceptance, as had not been signed or accepted by that contracting party or Uruguay, such acceptance to take effect on the day of signature.

8. Any acceding government which has signed this Protocol shall be free to withdraw its provisional application of the General Agreement and such withdrawal shall take effect on the sixtieth day following the day on which written notice of such withdrawal is received by the Secretary-General of the United Nations.

9. (a) Any acceding government which has signed this Protocol and has not given notice of withdrawal under paragraph 8, may, on or after the date on which the General Agreement enters into force pursuant to Article XXVI thereof, accede to that Agreement upon the applicable terms of this Protocol by deposit of an instrument of accession with the Secretary-General of the United Nations. Such accession shall take effect on the day on which the General Agreement enters into force pursuant to Article XXVI, or on the thirtieth day following the day of the deposit of the instrument of accession, whichever shall be the later.

(b) Accession to the General Agreement pursuant to subparagraph (a) shall, for the purpose of paragraph 2 of Article XXXII of that Agreement, be regarded as acceptance of the Agreement pursuant to paragraph 3 of Article XXVI thereof.

10. (a) The original text of this Protocol shall be opened for signature at Torquay by present contracting parties and acceding governments on 21 April, 1951. It shall thereafter be deposited with the Secretary-General of the United Nations and shall be open for signature at the Headquarters of the United Nations from 7 May 1951 to 21 October 1951 by present contracting parties and acceding governments, and by Uruguay, provided Uruguay shall previously have signed the Annecy Protocol of Terms of Accession in accordance with the decision of the Contracting Parties of 9 November 1950.

(b) The Secretary-General of the United Nations shall promptly furnish a certified copy of this Protocol, and a notification of each signature to this Protocol, of each deposit of an instrument of accession under paragraph 9(a), and of each notice under paragraph 3(b) or 8, to each Member of the United Nations, to each government which participated in the United Nations Conference on Trade and Employment, and to any other interested government.

(c) The Secretary-General is authorized to register this Protocol in accordance with Article 102 of the Charter of the United Nations.

11. Provided a decision under Article XXXIII of the General Agreement has been taken agreeing to the accession of an acceding government, this Protocol, including the schedule relating to that acceding government contained in Annex B, shall enter into force for that acceding government

(a) on 20 July, 1951, this Protocol has been signed by that acceding government by 20 June 1951, or

(b) on the thirtieth day following the day upon which it shall have been signed by that acceding government, if it has not been signed by that acceding government, by 20 June, 1951.

The date of this Protocol shall be 21 April 1951.

Done at Torquay, in a single copy, in the English and French languages, both texts authentic except as otherwise specified with respect to schedules annexed hereto.

NOTE: There will follow a signature page for the contracting parties, Uruguay and acceding governments.

ANNEX A

SCHEDULES OF PRESENT CONTRACTING PARTIES AND URUGUAY

ANNEX B

SCHEDULES OF ACCEDING GOVERNMENTS

ANNEX III

DECLARATION ON THE CONTINUED APPLICATION OF THE
SCHEDULES TO THE GENERAL AGREEMENT
ON TARIFFS AND TRADE

The Contracting Parties to the General Agreement on Tariffs and Trade (hereinafter referred to as "the General Agreement")

Desiring to continue the application of the schedules to the General Agreement until January 1, 1954,

Having taken note of the modifications made in accordance with the provisions of Article XXVIII of the General Agreement in certain items of the said schedules, which modifications are incorporated in Annex A to the Torquay Protocol to the General Agreement, dated today,

Hereby Declare that they will not invoke prior to January 1, 1954 the provisions of paragraph 1 of Article XXVIII of the General Agreement to modify or cease to apply the treatment which they have agreed to accord under Article II of the General Agreement to any product described in the appropriate schedule annexed to the General Agreement.

The provisions of the preceding paragraph shall not apply to concessions initially negotiated with a government with respect to which neither this Declaration nor the Torquay Protocol to the General Agreement is in effect.

The original of this Declaration shall be deposited with the Secretary-General of the United Nations who is authorised to register this Declaration in accordance with Article 102 of the Charter of the United Nations.

The Secretary-General of the United Nations shall promptly furnish a certified copy of this Declaration to each Member of the United Nations, to each other government which participated in the United Nations Conference on Trade and Employment, and to any other interested government.

In Witness whereof the respective representatives, duly authorised, have signed the present Declaration.

Done at Torquay, in a single copy, in the English and French languages, both texts authentic, this twenty-first day of April, one thousand nine hundred and fifty-one.

NOTE: There will follow place for the signatures of the contracting parties.

SESSION 1951

HOUSE OF COMMONS

STANDING COMMITTEE

ON

BANKING AND COMMERCE

CHAIRMAN—MR. HUGHES CLEAVER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

TORQUAY NEGOTIATIONS

WEDNESDAY, MAY 30, 1951

WITNESS:

Mr. W. J. Callaghan, Commissioner of Tariff, Department of Finance.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
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CONTROLLER OF STATIONERY
1951

MINUTES OF PROCEEDINGS

WEDNESDAY, May 30, 1951.

The Standing Committee on Banking and Commerce met at 4.00 o'clock p.m. Mr. Cleaver, Chairman, presided.

Members present: Adamson, Argue, Ashbourne, Bennett, Blackmore, Cannon, Carroll, Coté (*St. Jean-Iberville-Napierville*), Crestohl, Fleming, Fraser, Fulford, Gingras, Gour (*Russell*), Harkness, Hellyer, Helme, Hunter, Laing, Ledue, Macdonnell (*Greenwood*), Picard, Richard (*Gloucester*), Richard (*Ottawa East*), Riley, Sinclair, Thatcher.

In attendance: Mr. Hector B. McKinnon, Chairman of Tariff Board; Mr. W. J. Callaghan, Commissioner of Tariff, Department of Finance; Dr. C. M. Isbister, Director, International Trade Relations Branch, Department of Trade and Commerce; Dr. E. A. Richards, Principal Economist, Department of Agriculture; Mr. J. J. Deutsch, Director, International Economic Relations Division, Department of Finance; Mr. S. S. Reisman, International Economic Relations Division, Department of Finance.

On motion of Mr. Carroll:

Resolved,—That the Committee print from day to day such copies of its minutes of proceedings and evidence, in French and English, as may in the opinion of the Chairman, be required.

On motion of Mr. Laing:

Ordered,—That the documents embodying the results of the Torquay Negotiations be printed as an appendix to the report of the meeting held on Tuesday, May 29, 1951. (*See Appendix A to Minutes of Proceedings and Evidence, Tuesday, May 29, 1951.*)

Mr. Callaghan was called and tabled for distribution copies of a document showing the number of items in the tariff entitled "Tariff Items". At the suggestion of the Chairman, it was agreed that this document should be printed as *Appendix A* to the report of this day's proceedings.

Mr. Callaghan also tabled for distribution copies of a document entitled: "Statement showing the British Preferential and Most-Favoured-Nation Rates of duty in effect prior to and after Torquay Tariff Negotiations and the total imports from all countries during the calendar year 1949 of the products listed in Schedule V to the Torquay Trade Agreement".

On the motion of Mr. Sinclair:

Ordered,—That the latter document tabled by Mr. Callaghan be printed as an appendix to the report of this day's proceedings. (*See Appendix B*)

Mr. Callaghan made a statement with respect to the two documents tabled and was questioned thereon.

Messrs. McKinnon, Deutsch and Isbister answered questions, specifically referred to them, arising out of the evidence given by Mr. Callaghan.

At 5.50 o'clock p.m. the Committee adjourned to meet at the call of the Chair.

R. J. GRATRIX,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

May 30, 1951.

The CHAIRMAN: Gentlemen, we have a quorum. First, we should have a motion with regard to printing. On the occasion when this committee dealt with the Geneva trade agreements we started off with printing 500 copies in English and 200 in French, and later as the need arose the number was increased.

Mr. Carroll moves that the committee print from day to day such copies of its minutes of proceedings and evidence, in French and English, as may in the opinion of the Chairman, be required. I will ask all those in favour to so indicate.

Carried.

Now, gentlemen, I should like to have authority to have printed as an appendix to the evidence taken at our first meeting the documents embodying the results of the Torquay negotiations. Mr. Laing so moves. Will all those in favour so indicate?

Carried.

(Appendix A to Minutes of Proceedings and Evidence, Tuesday, May 29, 1951—Documents embodying the results of the Torquay negotiations.)

Now, just to carry on from where we left off yesterday, I will ask Mr. Isbister if he has anything further to say to the committee.

Mr. ISBISTER: Mr. Chairman, I have nothing further to propose in the way of a prepared statement.

The CHAIRMAN: Do members of the committee wish to ask any further questions of Mr. Isbister with regard to his statement? If not, shall we hear Mr. Callaghan?

**Mr. W. J. Callaghan, Commissioner of Tariff, Department of Finance,
called:**

The WITNESS: Mr. Chairman and members of the committee, at the present time I am going to make a few general remarks. First of all with regard to the tariff, the second last consolidation was issued in 1944; the present consolidation was printed in 1950. It may be necessary to have a new consolidation printed in a year's time.

We are often asked how many items there are in the tariff. There is only one way to find out and that is to count them. We had a count made and found that in the printed tariff there are 1,927. If we add the new items of the Torquay agreement there would be 97 more, and the new items in the budget this year would add 14; so we can safely say there are about 2,038 items in the customs tariff. That is only a figurative guidance because one item may be worth a lot and the next one may be worth very little.

Mr. MACDONNELL: Do you have to know them all to be a tariff expert?

The WITNESS: The Canadian tariff today is a three columnar tariff: British preferential, the most-favoured-nation, and the general. Some of the items

are free under the three tariffs—the British preferential, the most-favoured-nation, and the general. I find there are now about 446 items in this category.

Then there is another group of items, about 141, that are free both on the British preferential and most-favoured-nation tariffs; and there are about 576 items which are duty free under the British preferential with rates of duty under most-favoured-nation and general tariffs.

This leaves 875 items dutiable under the B.P., m.f.n. and general tariffs. This does not mean that only 875 items carry a margin of tariff preference for products of British commonwealth origin. To this figure should be added the 576 items that are duty free under the B.P. only. It could be safely estimated that a preference exists today on about 1,450 items in the tariff. By preference I mean where there is a difference between the British preferential and the most-favoured-nation rates of duty.

Mr. CARROLL: Are they enumerated in one of these three categories?

The WITNESS: Everything under the sun comes under some one particular item of the tariff.

Mr. CARROLL: Either the preferential, most-favoured-nation or the general?

The WITNESS: Yes. Everything that is imaginable comes under the 2,038 items. If there is no specific item in the tariff, item 711 applies.

Mr. LAING: Or n.o.p.?

The WITNESS: N.o.p. is used of an item if the product is not provided for some place else.

Mr. MCKINNON: I think it might be well for Mr. Callaghan to repeat his last statement. Some members of the committee were trying to take it down. I refer to the statement where you gave the number of items which bear a preference out of the total number of items.

The WITNESS: I will do a little better than that; I will distribute a copy of what I stated.

The CHAIRMAN: Shall this statement be printed as an Appendix to today's Proceedings? Agreed.

(Appendix A—Statement of tariff items.)

Mr. MACDONNELL: May I ask if Mr. Callaghan is going to give us figures which will indicate the relative importance of these items to our total imports?

The WITNESS: The volume of trade for a specific year under each of these groups? With the figures I have I might be able to compile this information.

Mr. MACDONNELL: We cannot roughly use figures like 2,000 and 1,450 and draw any inference.

By Mr. Harkness:

Q. Have you any breakdown, or can one be secured as to which of these dutiable items are what you would call raw products and which are called manufactured goods, and the value of each?—A. No, I have not got that.

Q. You have no figures on that—A. No, there are no figures.

Q. No figures as to the value of each?—A. There are somewhat similar figures given in the front of the trade returns, but sometimes materials are included with manufactured goods. Now, take automobiles and automobile parts: you cannot separate those. Take one under the heading of the finished article.

Q. Those are all manufactured goods.—A. Yes, they are manufactured goods.

Q. I am talking about where there is any breakdown as between raw products like sugar on the one hand and on the other hand automobiles or

automobile parts?—A. Sugar is a manufactured product, too. I will look into this matter and see if the Bureau of Statistics have ever compiled such information.

Mr. SINCLAIR: Would you not have trouble in deciding too whether lumber is a raw product or whether the log itself is a raw product, or whether plywood is a raw product; in the tariff items in the present budget you have some tariff items which include rough, unfinished parts as well as final parts?

The WITNESS: Yes, that is true. I will look into this. It may not be possible to get the information. I do not think it is possible.

I have prepared another statement which I think will be useful to the committee, and I have copies here, showing the British preferential and most-favoured-nation rates of duty in effect prior to and after the Torquay tariff negotiations, and the total imports from all countries during the calendar year 1949 of the products listed in schedule V to the Torquay trade agreement.

This document is an extended copy of the Torquay trade agreement with the British preferential rates before and after Torquay and the most-favoured-nation rates before and after Torquay and the amount of the total trade involved.

Mr. SINCLAIR: Mr. Chairman, since this committee is to be regarded as of value from an educational point of view as well as for its committee purposes, I would suggest that this statement would make a very useful appendix to our proceedings. It appears rather bulky, but I do not think it will actually be bulky when it is printed.

Mr. HUNTER: In that last statement—in the first sheet you gave us—do I understand that of the 875 items dutiable under the free tariffs there is a preference in each case for the British preferential? You say in your statement: "This leaves 875 items dutiable under the British preferential, most favoured nation and general tariffs. This does not mean that only 875 items carry a margin of tariff preference for products of British commonwealth origin. To this figure should be added the 576 items that are duty free under the B.P. only."

The WITNESS: Yes.

The CHAIRMAN: Mr. Sinclair moves that the statement showing the British preferential and most favoured nation rates of duty in effect prior to and after the Torquay tariff negotiations should be printed as an appendix to today's evidence. I think it would be very useful to the committee members and to the members of the House to have that information in a nice consolidated form.

Mr. HARKNESS: Yes, as a statement on the importance of these various items, this is shown quite clearly.

Agreed.

(See Appendix B.)

Mr. LAING: Did I hear Mr. Callaghan give the total figure for the column on the left-hand side?

The WITNESS: The total figure on the right-hand side is shown there. It amounts to something like \$665 million.

By Mr. Macdonnell:

Q. That is out of the total import trade of— —A. In the neighbourhood of \$3 billion for the 1949 total import trade; \$2,761,000,000 for 1950—\$3,174,000,000—somewhere around \$3 billion total import trade.

Q. In other words, these items cover one-fifth of our total import trade?—
A. Yes.

Q. Could we have some generalization as to the rest? Is the rest free?—A. No, the other items are not duty free. These are just the items dealt with at Torquay.

Q. Yes. I had forgotten.—A. The reason why I did not use the total trade in this statement is quite obvious. For example, we bound raw cotton. It was already bound to the United States at Geneva. Peru asked for it. It totalled \$67 million alone. The binding of this item was a concession to Peru.

Mr. HARKNESS: What do you mean by "bound"?

The WITNESS: The binding of item establishes a maximum tariff rate beyond which customs duties may be increased during the life of the agreement; and the only advantage to the country receiving the binding is that it would have to be consulted before that tariff could be increased.

By Mr. Bennett:

Q. Was there a general agreement at Torquay about dumping duties?—A. There is a section regarding dumping duties in the general agreement of tariffs and trade which was not discussed at Torquay. There was another important item that was bound to Peru and that was anthracite coal which was reduced to free at Geneva. Imports under this item were another \$47 million. Those two figures alone swell the total. There are many others.

Q. Will you explain how the dumping duty works, if you are through with that question?—A. The dumping law is in the tariff. It was amended or modified a few years ago in line with Geneva, and probably the best way of explaining it is by reading section 6 of the customs tariff. This is a matter of interpretation, a matter of administration more or less.

The CHAIRMAN: If any member of the committee really wants authentic and detailed information in regard to the dumping duties, let us get it. But let us not get it piece-meal. I shall undertake to provide a witness to give you that information if you want it. Mr. Callaghan is from the Finance Department. He is not from the National Revenue Department.

The WITNESS: It is all explained in a circular published by the National Revenue Department. It is marked Series D-87, Revised. This circular contains the text of section six of the Customs Tariff. It is all explained there.

Mr. SINCLAIR: Only a week ago in the House I think the Minister of Finance made quite a long statement about the principle of dumping duties and their application to one item.

The CHAIRMAN: Thank you.

The WITNESS: I would not like to explain this section in detail because I might say something which might not agree wholly with the administration of this law by the Department of National Revenue.

The CHAIRMAN: I have been in committee work long enough to know that if you are going to get anywhere in an inquiry, you must do it in an orderly fashion. I shall see that the proper witness is brought here for that purpose.

Are there any further questions, Mr. Callaghan, or have you any further general information?

The WITNESS: I would like to add that yesterday Mr. Isbister gave the committee the general idea of how requests and representations for tariff reductions in foreign countries were handled.

I shall now deal very briefly with that subject. Before we went to Geneva in 1947, briefs were obtained. We received about 400 or 425 briefs.

The same principle was followed before Annecy, when I would say about 65 briefs, or something of that order were received.

The same invitation was sent out to the trade before Torquay. But the number of briefs dropped down to perhaps 35 or 40. However, that does not

mean that numerous representations were not received. When an association submits a brief, it has got to satisfy every member of that association, and it is limited in scope. But in so far as the tariff on exports are concerned, request may be presented for tariff concessions on any product which we export. When it comes to the other part of the brief, when they have to offer concessions in the Canadian tariff, you do not find very many of them. They usually point out why the Canadian tariff should not be reduced.

Industries and associations have to a considerable extent departed from written briefs. They prefer to make verbal representations, or write short letters, after they have made verbal representations.

Before we went to Torquay hundreds of representations were received, which never reached the form of brief. I have had a check made and there are about 4,000 papers which might be called briefs, which accumulated between Ancey and Torquay.

By Mr. Macdonnell:

Q. What did you do with them?—A. I took them all with me to Torquay. I may say that I still have them. I admit that I have not fully read every brief submitted in 1947.

Representations were received from every available source. Many came from firms in the United States and in the United Kingdom. Many manufacturers and business men from the United Kingdom visited Canada before we left for Torquay on the average of two or three people a week. One of the objects of their visit to this country was to get preferred tariff treatment on their goods coming into Canada.

But with respect to the individuals and manufacturing firms in the United Kingdom, when you informed them that if we reduced the British preferential tariff we must also reduce the most-favoured-nation tariff, they invariably came to the conclusion that things had better be left the way they were, because if the most-favoured-nation tariff were reduced it might increase their competition from the United States, France, Germany, and other countries.

I can add nothing more except to assure you that every representation made received consideration. They were not all acted upon by any means. At Torquay as you have already been told, the practice followed was to give away as little as possible. I think Mr. McKinnon told you that yesterday.

There are, of course, many tariff requests still on file and not dealt with because there was not an opportunity. We did not feel like handing out concessions as gratuities to some other country without getting something back in return, particularly when negotiating trade agreements.

With these general remarks, I am now ready to answer any questions.

By Mr. Sinclair:

Q. I would like to point out, Mr. Chairman, that so far we have had Dr. Isbister explaining how they canvassed the Canadian trade which was anxious to get tariff concessions in other countries.—A. I do not have to canvass them.

Q. No. The people in other countries come to you asking for concessions.—A. Yes.

Q. But you have not yet explained what sort of canvass is made of Canadian manufacturers wanting to get the benefit of concessions which you give to other countries.—A. If they are individual manufacturers, importers or small associations, they make representations verbally or by letter; but in the case of some of the larger associations, a well prepared brief is usually submitted.

By Mr. Macdonnell:

Q. How would they know what to make representations against?—A. They outline the tariff position on the goods which they manufacture, and they point

out pretty clearly the dire results which would follow if the tariff were reduced on any of the products which they make in considerable quantity.

By Mr. Cannon:

Q. Suppose you received a request from a foreign country for a reduction on two or three tariff items. How would you go about notifying people in Canada who would be affected by those reductions so that they could make representations?—A. By writing to them.

Q. Do you write to them?—A. Yes, so far as it is possible.

Q. And you do that in all cases?—A. Pretty much so.

By Mr. Bennett:

Q. I understand that the tariff on apples was cut in half, and that it brought about a lot of trouble last year in connection with the importation of American apples. It is tariff item No. 93. I see that you have cut it in half. Might I ask if the apple associations were notified.—A. We had a good brief from the Horticultural Council. Of course, in that case I would not write to every grower and producer of apples. It would be the Horticultural Council which would make the representations. They would be made primarily to the Department of Agriculture.

By Mr. Sinclair:

Q. Also, in that particular case again, the exports to the States were about ten times as much as the American exports to Canada. So the balance was very much in our favour.—A. When it comes to details about apples, I shall have to ask Dr. Richards to answer the question.

But I can give you another example. It is a case pending which has not been acted upon. The agent of an English firm in Toronto made representations several times in regard to the duty on trailer springs, heavy springs for heavy trailers.

It is a tariff item with a fair rate in the British preferential, while the most favoured nation is not much higher. I think it is $22\frac{1}{2}$ p.c. under the British preferential and $27\frac{1}{2}$ under the most favoured nation tariff.

This agent wanted to get free entry. But if you make the British preferential free, then you must reduce the most-favoured-nation to 5 per cent.

We have three or four firms in Canada manufacturing motor vehicle springs. I obtained the views of the industry in Canada. It was very easy to consult the manufacturers of springs in Canada. The matter is still pending.

The agent has a pretty good case, but I do not know what the outcome will be. We endeavour to get both sides of the story. When it comes to apples or to farm products, there is only one general source of information the Department of Agriculture or the Horticultural Council. You cannot consult every party interested.

The CHAIRMAN: Now, gentlemen, shall we go into individual items, having heard the general remarks?

By Mr. Cannon:

Q. Oh, Mr. Chairman, I am not making a suggestion, but I want to ask Mr. Callaghan if he does not think that when requests are received, like that or from the United States asking for a reduction on certain items, that instead of leaving it to him, or to a successor who might not have as much experience or as much knowledge of trade conditions to make up his mind whom they were going to apply to in this country to argue it, whether it would or would not be a good thing to provide in the law or in some manner for public notice to be given either

in the *Canada Gazette* or in some such way as that, so that everybody would have a chance to be informed of any tariff reductions that were requested, rather than to have it left to his own initiative.—A. I am afraid you would have ten public notices in every issue of the *Canada Gazette* if you did that.

Q. Do you think it would be as bad as that?—A. I think it would be quite as bad as that. It would be very much like the automobile and the textile industry. In cases where many interests are concerned the minister may decide the whole question be referred to the Tariff Board for the purpose of a public inquiry and report. This Tariff Board was set up to look into large industries and to make inquiries. In that way every party interested is given an opportunity to be heard. A recommendation is made by the Tariff Board to the minister, after all the evidence is obtained. Others are dealt with by the office of the Commissioner of Tariffs.

The CHAIRMAN: Are there any further general questions?

By Mr. Thatcher:

Q. I have a question, Mr. Chairman. I wonder if Mr. Callaghan could tell the committee the number of concessions that were made by Canada to the United States, as well as the dollar value of them? And then, in turn, I would like to know what we received from the United States in the way of concessions as well as the dollar value of them. I would like to compare what we got from the United States with what we gave to the United States.—A. In the press release we put in these two paragraphs, which read as follows:

TARIFF CONCESSIONS GRANTED BY CANADA

The tariff concessions made by Canada at Torquay cover 397 items or sub-items of which 261 are reductions in the present most-favoured-nation tariff and 136 are bindings of the existing rates of duty. Most of these bindings cover items already bound at Geneva or Ancecy. Only 37 are new bindings. These concessions are shown in Schedule V of the Torquay agreements. This schedule consists of Part I covering the most-favoured-nation tariff and Part II covering the preferential tariff.

Canada's total imports during the calendar year 1949 from all countries under the 261 items or sub-items on which the most-favoured-nation tariff was reduced at Torquay amounted to over \$391,000,000. The reductions directly negotiated with the United States cover over \$311,000,000 worth of these imports. Imports from all countries under the 37 items or sub-items referred to above as new bindings amounted to almost \$45,000,000 in value of which the United States supplied over 95 per cent.

Now, the direct answer to your question is that we reduced the tariff on 261 items or sub-items. The total trade involved at Torquay from all countries under these 261 reductions amounted to \$391 million; and of that amount \$311 million came from the United States.

Q. The number of concessions which you made to the United States was what? I mean just to the United States alone? What were the concessions which you made to the United States, the number and the value of them?—A. The number?

Q. Yes?—A. The number of items?

Q. Yes?—A. I have not got the number of items at the moment. I think it is nearly 90 per cent of the total. But the value of the reductions to the United States was about \$311 millions. I think the items numbered around 300 or 350, something like that.

Q. What was the opposite side of the case, then?

Mr. ISBISTER: \$120 million in the United States was the figure which was given.

By Mr. Thatcher:

Q. Are we to take it then that is the reason why we got so much less from the United States than we gave them?—A. No.

Q. Is it not \$120 millions as compared with \$311 millions?—A. No.

By Mr. Laing:

Q. Is it not 10 per cent of \$391 million and 20 per cent of the other figure?—A. Some of the reductions we got were 50 per cent reductions, from 40 per cent to 20 per cent. But as a general rule, in a few cases it went further than 2½ per cent.

Mr. THATCHER: You figured it out over there?

The WITNESS: Yes.

Mr. LAING: Have these been worked out in general?

Mr. THATCHER: Yes, and if you work it out to include the dollar value, when you include your percentages, I would like to know the dollar value of the concessions received and the concessions given. You told me that these figures are for trade which is immediately involved?

The WITNESS: Yes.

By Mr. Thatcher:

Q. But in percentages. You must have a figure. Could you not get it for us at the next meeting perhaps?—A. You would have to take every item.

Q. I do not want you to go to a lot of work.

By the Chairman:

Q. Does it not of necessity change from year to year depending upon trade conditions?—A. Yes. I could make an estimate of them. I think it is somewhere around 2½ per cent of \$311 million. No, that is not quite high enough. 5 per cent would be too high for the whole picture. I think I would make an estimate of between \$13 million and \$14 million. I think that is the figure which you had in mind.

By Mr. Thatcher:

Q. The only thing I wanted to establish is: Did we give the United States too much, or was it about the same as we got from them? Can you tell me that?—A. I know that 2½ per cent would be a little too low. I think 5 per cent would be a little too high. So I think it must be somewhere between the two, say \$13 million or \$14 million.

Q. Yes. That is the concession we made to the United States?—A. Yes. Then what did we get in return for that?

By Mr. Argue:

Q. What percentage is the \$120 million?—A. That is my difficulty. I think that Trade and Commerce could answer that.

Mr. HUNTER: That would not give us a true picture because by a lowering of the tariff our exports might be greatly extended.

Mr. THATCHER: Can you give it to us with 1949 as the base year?

The WITNESS: I shall take the figures and try to balance them out.

Mr. SINCLAIR: According to the example given with regard to British Columbia plywood, we have had but little export business to the United States because of this tariff.

Mr. HUNTER: They may have a much higher import now due to our reductions.

Mr. THATCHER: All I want is the information I asked for.

The CHAIRMAN: If you sat and considered the matter quietly in your own minds, you would see how impossible it is even to estimate it.

Mr. ARGUE: It cannot be so impossible, since we already have an estimate in one case of \$13 million to \$14 million. Mr. Thatcher is asking only for an estimate.

The CHAIRMAN: I wonder if Mr. Deutsch would care to comment on this matter?

Mr. DEUTSCH: It is an extremely difficult problem, Mr. Chairman, to estimate what the effect of tariff reductions will be in terms of trade.

It is possible, as you will see, that one might make an agreement where there were reductions on both sides, where the past trade on items on which concessions received may have been zero, if you took an extreme case.

But suppose we negotiate a tariff agreement with the United States on items where the tariff in every case was so prohibitive in the past that no trade could take place. And suppose we should get very substantial concessions, or suppose we got complete elimination of those tariffs. If you take simply the trade measurement in any given year—it always has to be the past year, because you do not know what the future is going to be—so, for the past year, under these prohibitive tariffs there would be no trade whatsoever.

In such a case, you would say: We got concessions on nothing, whereas in fact we actually may have got enormous concessions, depending on how far those tariffs were brought down, and depending upon the possibilities for the development of future trade.

I think, statistically speaking, a past situation can tell you very little about what the future is going to be. That will depend upon how effective these reductions are going to be in the development of trade.

Naturally, when we are making agreements, the delegation making the agreements has to assess the possibilities to the best of its capacity. They know what the industries are, and what the potentialities of those industries are. They know something of the possibilities of trade in the items concerned. And on the basis of their judgment they must decide whether an equitable agreement has been reached.

Merely to add up figures of past trade will not tell you what the answer will be. It will make an interesting bit of information, but it will never tell you whether an equitable and reciprocal agreement has been reached because that will depend upon the affect of those reductions on trade in the future, and you cannot say what that is simply by reference to trade in the past.

Mr. SINCLAIR: One year from now, could you not take an item on which you have made concessions, and on which there may be trade after one year following the negotiations, and compare it with the trade of the year before?

Mr. DEUTSCH: Yes. Thereby you would get the first indication. We could take the year 1950 in which year the tariffs were as they were before Torquay, and having taken the trade for the year after June 6th and compared them it would give us the first indication. But even that would not be a conclusive indication because some of the industries that are taking advantage of the reductions may require several years to get into a position to take full advantage of the concessions.

There are a number of cases like that. Consider the plywood industry as an example. They have not been geared for full-out export to the United States in the past. The affect of the 40 per cent tariff was prohibitive. There is no need of going over that. But that tariff has now been cut in half. So it may be that the industry will require a few years to build up its capacity in order to take full advantage of that reduction.

Mr. LAING: They are afraid that it won't, in the State of Washington.

Mr. DEUTSCH: The industry has been able, up to the present time, to get over the 40 per cent tariff to some extent. But I believe that cutting the rate in half will be of very great benefit to the industry. However as to what will happen in the future, I cannot say.

The CHAIRMAN: It will depend in part upon the industry itself.

Mr. DEUTSCH: Taking views of past trade and judging from them what the future is going to be is a very difficult thing to do.

Mr. LAING: We have got a theoretical figure on the record now as to what we have given away. As nearly as I can make out in the case of lead and zinc alone it amounts to \$8 million.

Mr. DEUTSCH: This calculation you are speaking of is really an estimate of the changes in duties. It is not trade. All we are saying is how much in the way of duties we gave up. All that it tells you is how much less revenue we are getting, assuming that the trade remains the same.

Mr. THATCHER: Did the delegation feel that what they got from the United States was reasonably similar to what they gave?

Mr. DEUTSCH: Yes, otherwise they would not have agreed to it.

Mr. THATCHER: Did you find that you were not able to get what you wanted because of the American's hands being tied by this 50 per cent clause?

Mr. DEUTSCH: Yes. But that is another question. We did not by any means get everything the way we would have liked to get it, partly because of that 50 per cent limitation and partly because of other factors.

Of course, that is precisely what is taken into account when you decide what you think you should get.

You have to bear in mind the limit of their capacity to give you concessions, and you judge your whole plan of strategy in the light of what you know they can give, or are likely to give, or what, in the end, they do give to you; and you decide how much you can afford to give on your side.

You try to get mutually advantageous arrangements. You can never weigh it exactly in the scales, because there are so many imponderables entering into the question. So you try to use the best possible judgment you can.

Mr. LAING: With respect to this theoretical figure we have applied to the concessions, I take it Mr. Callaghan estimated it out of last year's experience?

Mr. DEUTSCH: Yes.

Mr. LAING: May we get a further theoretical figure out of last year's experience?

Mr. DEUTSCH: I would say that what you are getting is an estimate of the change in duties, provided the trade remains the same.

The CHAIRMAN: And if trade should double, you are even.

Mr. DEUTSCH: Yes.

Mr. SINCLAIR: One other point which I think should be on the record is this: Very important concessions were made on canned salmon in British Columbia. The salmon people there feel they cannot get into the American market right now. They have the salmon, but they say it will take some time for them to establish a trade name. They believe that the Americans will continue to buy the American brands, and that it will not be until the first second, or even the third year, and by the time these provisions of the Torquay agreements lapse, that you will then be in a position to give a very accurate estimate of the improvement in our trade because of this agreement.

Mr. DEUTSCH: That is right. About three years from now you will have a pretty good idea of what the effect of these reductions will be. I think it will take that length of time for them to take full advantage of what they have got now.

In the case of the Geneva agreement the same thing was true. I mean the 1947 Geneva agreement.

I think it was said that we got concessions of \$89 millions of trade, and it was assumed that the trade would exceed \$89 millions; and if you look back to what happened to trade between 1947 and 1950, you will see there has been an enormous increase in many of the items in which concessions were obtained at Geneva. The increase has amounted to many many times this figure of \$89 million. It is almost ten times that figure.

Mr. HARKNESS: The increase would be due to a large extent to other factors?

Mr. DEUTSCH: Yes.

Mr. McKINNON: Mr. Chairman, might I say how unrealistic it is to take the dollar value of past trade which, after all is just an historical figure, and use it as a yardstick.

I know what is in the minds of some of the committee, namely, the apparent disparity, the arithmetical disparity, between the figure of \$310 million or \$311 million on one side, and the figure of \$110 million or \$111 million on the other side.

Between \$150 million and \$200 million of one of these totals is made up by imports entering Canada under two items only, and on those two items the reduction we put into effect is only $2\frac{1}{2}$ per cent.

In other words, a total import value of something approaching \$200,000,000 out of \$300,000,000 odd is represented by imports in two items and one sub-item on which the rates were reduced by only $2\frac{1}{2}$ per cent. As a result of our rather small reduction, the trade may be very little increased as far as imports from the United States are concerned. But when we get a 50 per cent reduction on products such as plywood, as well as a number of 25 per cent reductions on other important exports, I think it shows pretty clearly that you are comparing things which are not alike.

Mr. THATCHER: You say that it is unreal to base these concessions upon past figures. How precisely do you base them, then?

Mr. McKINNON: You mean: How do we know when we have got an agreement?

Mr. THATCHER: No. How do you try to balance the quid pro quo between two countries, if you do not use past figures as a basis?

Mr. McKINNON: I admit that past figures are all you have got to go on, so far as something tangible and concrete is concerned. On the other hand, I would never agree that you could make an agreement by matching up equal dollar values on both sides. I do not think that would ever provide for a mutually satisfactory agreement.

Mr. THATCHER: Do you not try to get as much as you can?

Mr. McKINNON: Certainly we try. Our purpose in every agreement is to get all we can and to give as little as possible. And you only know when you have an agreement by the sense of it, by the feel of it. It is not a case of balancing one item against another item. It is not a case of complete reciprocity with any two items. It is a case of getting the sense of your own concessions as against what you received from the other. I would submit again with all respect that the figure of past trade is not a realistic yardstick at all.

Mr. LAING: Since we have a record of \$13 million or \$14 million, I would be happy to see the agreement now made applied to last year's experience.

Mr. McKINNON: You mean on the export side?

Mr. SINCLAIR: Yes.

Mr. McKINNON: Here is another factor. You must take into consideration in connection with particular products, let us say, aluminum, that a very small reduction in the existing rate may mean a very great increase in exports. But in other cases a very much greater reduction in the rate of duty may not appreciably increase the exports or the imports. So much depends on the particular commodity with which you are dealing.

I do not know if Dr. Isbister is prepared to comment on the export side.

Mr. CARROLL: A prophecy was made that the export of Atlantic fish, after this thing got to work, would increase by \$25 million.

Mr. ISBISTER: I was not able to follow Mr. Callaghan's calculation in arriving at the \$14 million. I am not sure what it is based on.

I would like to say that as principal negotiator in relation to the tariffs of other countries, I did not have the statistics in my mind during the progress of the Torquay negotiations. But I did have in mind constantly during that time that we were attempting to open up opportunities for export into other countries.

I would like to give an example which has not yet been mentioned. I would like to refer to it because of the fact that very little publicity has been given to it. It is an obscure concession which was made to us by the United States. It consisted quite simply of binding a particular item for free entry. The item I refer to is the dross or residuum of burnt pyrites. It happens to be a substance which has been thrown on the slag heap. One of our great base metal producing companies for years and years. This company has recently been wondering whether to invest a large sum of money on a plant to process this waste material and produce iron for export.

If this project should go ahead, it would involve millions of dollars in terms of investment in Canada, and it would lead possibly to many millions of dollars of exports over the years. All that we did at Torquay was to obtain the binding of free entry in the United States tariff. In other words, we obtained, for this company, the assurance of knowing that these tariffs will not be increased. Therefore, the company is now free to go ahead with its plant, should they decide to do so. I cannot possibly attach statistics to the value of this concession but it is worth a great deal.

Mr. McKINNON: You mean you cannot show a dollar in value.

Mr. ISBISTER: Not a single dollar because there never was any trade in it, and we cannot put a value on it. That is the best answer I can give to the question. I am sorry that I cannot provide total statistics.

Mr. McKINNON: And that was a concession which was specifically requested by that company.

Mr. ISBISTER: Oh, yes.

Mr. ADAMSON: Therefore the company can go ahead and spend, let us say, .6 million or \$7 million, knowing that they are going to have a market for their product.

Mr. ISBISTER: Yes, knowing that the opportunity has been kept open for them.

Mr. ADAMSON: And knowing that if they go ahead and build a plant they will not find themselves thrown out of the market.

Mr. ISBISTER: That is merely one of many examples of what happened.

Mr. GOUR: Mr. Chairman, the people who went over to Torquay on our behalf did not go there to sell out Canada. They went there to create business opportunities for this country. They went there to try to open new markets for goods which we are producing, and which we will produce, if we have the kind of tariffs that these countries have. I am glad to hear what you have had to say. You cannot estimate the future in terms of dollars. If you open new markets for our manufacturers, it may mean more millions of dollars to us in the way of exports, it will certainly create new industries here, and it will be of great assistance to our manufacturers.

I am firmly of the opinion that you have done a good job, and I hope that you will continue to do so. I do not care so much about what it will amount to tomorrow, but rather about what it will bring in over a period of years from now.

The CHAIRMAN: Are there any further general questions?

Mr. ADAMSON: If you find that my question is going to be embarrassing to answer then do not answer it. But did you find there was an inclination on the part of the United States to go further than 50 per cent in the reductions on base metals, lead, copper, zinc, aluminum, and nickel, the major base metals?

Mr. McKINNON: I would prefer that Dr. Isbister answered your question. When you speak of "inclination on the part of the United States", if by that you mean on the part of the United States' negotiators, my answer would be undoubtedly, yes. But whether or not that would be backed up by the opinion of members of the United States government is another matter. I do not want to bring personal confidences into this, but I do know that in respect to one of the base metals, of which I know you are thinking, it was the opinion—may be what I have to say had better not be included in the record, Mr. Chairman.

Mr. CHAIRMAN: Very well, you may proceed but it will be off the record. (At this point the proceedings of the committee continued off the record).

Mr. MACDONNELL: We have had certain matters which came up and which were dealt with in relation to the budget. And at that time I asked a question which I shall now ask again. Certain matters were dealt with at Torquay as I understand it. Why would that be? What is the basis of the decision as to what items are negotiated, let us say, at Torquay and what items are negotiated on this side of the water?

Mr. McKINNON: Dr. Deutsch was in Canada while I was on the other side of the water, so maybe Mr. Deutsch will answer your question.

Mr. DEUTSCH: As Mr. Macdonnell knows, when it comes around budget time we receive a great many requests for adjustment of tariffs. That is normal each year, and this year as in others, we received the usual number of requests for adjustment in the tariff. They had to be dealt with in some way. In the past few years when we have had these requests, we have as far as possible tried to hold them back in anticipation of these negotiations with the United States.

Mr. MACDONNELL: You mean at Torquay?

Mr. DEUTSCH: Yes, at Torquay. And we have said in the last two years when we were approached with requests for adjustments in the tariff: If it is not something which is absolutely urgent and necessary at this time, we would like to hold it for the purpose of negotiation.

This year we received many requests, a great many of which we knew were being discussed at Torquay. So we simply said: Those are matters which are being discussed at Torquay, and we shall deal with them there.

There were a number of things which we knew were not being discussed at Torquay, and therefore we considered them. However, before official decisions

were taken by the minister, the Hon. Mr. Abbott, we referred all the requests we had to him and said: Now, can you, in any way, use any of these to advantage in your negotiations? If so, let us know which ones you can use, which ones you cannot use, and which ones are of no consequence so far as negotiations are concerned. We put in the budget only those items which could not be used to advantage at Torquay. Does that answer your question, Mr. Macdonnell?

Mr. MACDONNELL: Yes, it does.

Mr. ADAMSON: I think it was mentioned yesterday that there was great interest with respect to Germany. What were they anxious to sell? Or what were they particularly anxious to get? Is there any statement on that?

Mr. MCKINNON: I think that Dr. Isbister could tell you about the commodities because he had the most to do with the Germans with regard to exports. Mr. Callaghan can tell you in a word or two what items in the tariff they put the most pressure on.

Mr. ADAMSON: I think you said that Germany was the key to the whole European situation, did you not?

Mr. MCKINNON: I did say that of all the existing contracting parties in Europe with whom we tried to get bigger and better agreements, we singled out France and Germany particularly, because between the two of them they may well provide the key to European commercial policy in the near future. Therefore we were anxious to make a good agreement with Germany, for the first time, and to improve in as large measure as possible the existing agreement with France. Now perhaps Dr. Isbister would speak about the export end.

Mr. ISBISTER: Mr. Chairman since the war we have been well aware of the fact that the Federal German Republic no longer possessed those eastern regions which used to provide the whole of Germany with food and raw materials, and therefore that Germany would probably in the future be a much better complementary partner with Canada than she has ever been in the past. We went to Torquay confidently expecting that it would be possible to obtain from Germany concessions on many of those agricultural and fisheries products and on primary materials which Canada has in great abundance available for export.

As it turned out, we found that our hopes were fulfilled, and that the Germans were most anxious to discuss a broad range of commodities with us. Germany at this time, of course, is short of dollar purchasing power, so that again we were pointing up opportunities for the future rather than for the immediate present. The actual concessions which we received from Germany covered in the agricultural field a range of products such as bacon, processed milks, including cheese, honey, sausage casings, peas, fresh apples, dried apples and pears, white flour, linseed, mustard seed, red clover seed, various varieties of crop seeds, tallow, linseed oil, canned sausage, other types of canned meats, tomato juice, bran, oil cake; and in the fisheries field there was a list of products such as salmon, eels, fish roe, herring, canned lobster, fish meal, stick water which is a by-product of the fisheries industry, and pearl essence, which is another by-product.

In addition to this, Mr. Chairman, there was a diversified list of concessions on manufactured goods including the products of lumber and forestry industries and others.

If the committee is interested, I can very easily submit a list of the concessions received from Germany, to indicate the concessions which we received there.

The CHAIRMAN: Would you like to have that?

Mr. ADAMSON: I do not want to get too much on this, but I am rather interested.

The CHAIRMAN: Are there any further general questions?

Mr. THATCHER: Dr. Isbister has stated that these concessions will probably be of more advantage in the future because of the present German dollar shortage. The question just arises in my mind as to what protection Canada has in the future with respect to some of these countries giving concessions, and then using quotas and exchange regulations and things like that to cancel out those concessions. Is there that danger? Or is there an escape clause in the agreement?

Mr. ISBISTER: This agreement pertains to tariffs. There is no danger that concessions on tariffs will be withdrawn because of currency difficulties. On the other hand, countries in currency difficulty may find it necessary to impose import restrictions or currency controls upon dollar imports and should that type of thing happen, it would be no more possible to avoid it than it has been in the past.

In the recent past, our experience has been that most European countries have been in possession of more dollars to purchase goods than they were shortly after the war and they are increasingly interested in knowing what products we have for export.

Mr. THATCHER: As far as Germany is concerned, whatever they have given to us on these concessions, they may not be immediately able to take advantage of because of their dollar shortage?

Mr. ISBISTER: That is true. The German economy has not been stabilized since the war. The country is very much smaller than it was before the war. Inflation has been a continuing problem with them. Production has also been a continuing problem, and their external trade position has been a most difficult one.

Our attitude at Torquay towards Germany was that we welcomed her back into the world trade and tariff organization, and we shared along with other countries the hope that this was one step in the process by which Germany will achieve stability and a return to the channels of normal trade.

Mr. THATCHER: Would there be any other countries of which the same might be true? I mean countries in which we got concessions but which would not mean very much to us at the present time because of this exchange difficulty? What about Britain or France?

Mr. ISBISTER: We did not negotiate with Britain; but in the case of France, we received concessions on a number of products which we know France is very anxious to import at the present time. And we also know that the dollar position of France has improved considerably during the past year.

Mr. THATCHER: Is Germany the only country for which your statement would hold true?

Mr. ISBISTER: The only way to answer your question is to refer to the general agreement on tariffs and trade, which contains provisions to permit any country, including ourselves, should it get into currency difficulties, to impose emergency controls for a temporary period during which its difficulties persist. But when those difficulties have been overcome, the controls must be removed. Those provisions are in Articles XII to XIV of the General Agreement on Tariffs and Trade which we took advantage of in 1947 when Canada got into difficulties.

All of the countries which are members of the General Agreement on Tariffs and Trade have the privilege of resorting to these provisions should they get into balance of payment difficulties. So the only possible answer to your question is that these provisions do exist and may be taken advantage of by anyone, in a case of need. But they are carefully safeguarded.

Mr. THATCHER: The only country which is taking advantage of them at the moment is western Germany. Is that correct?

Mr. ISBISTER: No, that is not true. There are other countries as well.

Mr. THATCHER: What countries?

Mr. ISBISTER: It would take a long time to go through the list and describe the import controls which exist in all the countries with which we have negotiated, and I do not believe I could do it briefly. They are important in the case of Germany.

Mr. THATCHER: All I wanted was the names of the countries in which we have obtained concession but which may not be able to take advantage of those concessions during the coming year because of exchange difficulty or because of quotas or something of that nature which their governments impose.

Mr. ISBISTER: It would not be possible to answer your question simply by giving the name of the country, because we have to consider whether or not the country needs to obtain the particular product despite the fact of its currency difficulties. I refer to France which has quite a number of import controls in existence. They were imposed to safeguard the general currency position. In spite of this the French have begun to release some of their import controls. These releases apply to a number of products on which they gave us concessions at Torquay. Therefore, an accurate answer to your question in the case of France would involve not only mention of the country but also involve going through a long list and commenting on whether or not Canadian products are being imported in these particular items. It would be a tremendous undertaking.

Mr. THATCHER: All I wanted to know in a general way was whether there were many concessions which we got from many countries which are going to be made ineffective because of quotas and exchange regulations?

Mr. ISBISTER: The largest single negotiation was with the United States, and the question of import controls does not arise there. In relation to the group of agreements negotiated with countries of continental Europe, all of them to a greater or lesser degree have import controls against dollar goods at the present time. The question of how many of these import controls affect products negotiated at Torquay is something which must be examined case by case. In the case of Latin American countries with whom we carried on negotiations at Torquay, the question of import controls is not very serious on the commodities involved. Similarly in relation to countries in the Asiatic hemisphere with whom we carried on negotiations, for the particular product and the particular countries involved, this question did not rise to any great extent.

Mr. LAING: In view of the fact that West Germany has been mentioned, I would like to have some comment on our present position with respect to Japan. Are we not experiencing a rising trade, both export and import, with Japan? And what would be the prospects in the future for working with Japan on the basis on which we formerly worked with her?

Mr. McKINNON: Since Japan was not present at Torquay and is not a member of the general agreement club, we did not encounter that at all. Possibly Mr. Deutsch, speaking from a purely domestic point of view, might answer your question.

Mr. DEUTSCH: All I can add to what Mr. McKinnon has said is that the question did not come up at Torquay. Japan was not a member of the general agreement on tariffs and trade and was not present at Torquay, so we did not negotiate with Japan. The whole question of what our difficulties would be with Japan is something which has not arisen at the present time.

As you may know, Japan comes under the general tariff, so she does not benefit from any of these reductions which we made at Torquay or at Geneva. She did not get any of the benefits of this trade agreement. She comes under what we call the general tariff. She pays a higher tariff rate and that is her position at the present time.

Mr. LAING: Are Canadian importers at the present time dealing with Japan directly? Or do they have to deal with Japan through the Americans as a third party, or through the American government?

Mr. DEUTSCH: That situation has been changing rapidly in the last few years. The original status of the occupation was that foreign trade was practically under the control of the occupation forces. But that has been modified greatly and increasingly, so that today I understand the Japanese have been gradually becoming autonomous in their foreign trade relations, but not completely autonomous.

It is true that the American control authorities have an ultimate veto over anything they do, and I think that Japan operates under general instruction or general guidance from the occupation forces. And if Japan does anything of which the occupation forces do not approve, the forces have the power to stop it. But to some extent, I think the position there is returning to normalcy. I think they are getting back a good measure of autonomy subject to the over-riding control of the occupation forces.

Mr. LAING: Can we assume that, upon the completion of a peace treaty, we can invite Japan to participate in the "club"?

Mr. DEUTSCH: All we can say is—as you may have seen in a speech delivered by Mr. Dulles, who is negotiating a Japanese peace treaty on behalf of President Truman—that I believe Mr. Dulles has said that one of the objectives of a peaceful settlement with Japan is to bring about her return to the international trade community. So I think under the conditions of the peace treaty there will be an effort made to bring Japan back as a unit.

Mr. LAING: I understand that our exports to Japan on the west coast were in the neighbourhood of \$40 million to \$50 million annually.

Mr. DEUTSCH: Yes.

Mr. LAING: And that they are rising, but all subject to the occupation control.

Mr. DEUTSCH: That is right. I think if a peace treaty is developed, there will be an effort made to bring Japan back into the general community of nations in trading matters. But so far we have not had to deal with the question because Japan is not a member of the general agreement on tariffs and trade and she has not done anything about it since the war. As I have said, Japan is on the general tariff and that is her position at the present time.

Mr. McKINNON: I think it is pretty safe to assume that Japan will apply for membership. I do not think there is any doubt about that.

Mr. THATCHER: Perhaps I did not follow this too well, but I understood that Canada has not been able to trade with Japan to any great degree during the last five years because of the American occupation authorities preventing it.

Mr. DEUTSCH: No. I do not want to give you that impression.

Mr. THATCHER: My understanding was that they have not been co-operative in that respect.

Mr. DEUTSCH: I think one of the troubles about Japan is that they have to trade with borrowed money. After the war Japan was bankrupt as far as external trade was concerned. So the greatest difficulty with respect to our trade with Japan has been the lack of foreign exchange which Japan would have to pay for imports.

Mr. THATCHER: You think that the American occupation authorities have been quite co-operative?

Mr. SINCLAIR: The Americans have paid the shot for the last five years.

Mr. LAING: \$3 billion.

Mr. DEUTSCH: The Japanese themselves were completely without funds or exchange. Practically all the exchange they got was provided for them by

the United States. In a case of that kind, obviously the Americans who put up the money would have something to say as to how it was used. And while the Americans were in the position where they were putting up large sums of money or exchange, the expenditure of that exchange was pretty much subject to American control.

Of the many exports we sent to Japan from here, a good many of them in fact were paid for out of grants given by the United States. And therefore in our dealings we were influenced, of course, by whatever controls the Americans exercised, and we were bound to be, because they put up the money.

But that situation has been changing. Japanese trade has increased, and they are less dependent today on the United States. To an increasing degree they are coming back to an autonomous position, but not completely so. The occupation authorities still have the right to exercise a veto over their arrangements.

I do not know how often they intervened. Perhaps it was only in a general way. But our trade has been growing with Japan, and in the past five years there has been a very substantial increase.

Mr. THATCHER: Have we got a Trade Commissioner over there in Japan again?

Mr. DEUTSCH: Yes, for some years now, and when we get into difficulties with the American authorities, we have people who are on the spot, both a Trade Commissioner and an official representative of the Canadian government. He is an official representative of Canada. We have a representative on the spot to work with the American occupation authorities, and on many occasions we have had quite a lot of dealings with them in order to straighten out things to explain what was happening, and to put forward our point of view.

Mr. LAING: I think that is reflected in the way that trade has been going up.

Mr. DEUTSCH: Yes. Trade has been going up and it has been possible to develop an increasing amount of trade with them, subject to such control as is exercised by the American authorities.

Mr. MACDONNELL: Is the United States still paying the shot for it?

Mr. DEUTSCH: They are still paying some subsidy, but it is very much smaller than it was a few years ago.

Mr. SINCLAIR: If a merchant lends money to an insolvent farmer, he would not expect that farmer to do his purchasing with another merchant. But once that farmer became solvent again, he then could buy wherever he chose.

Mr. DEUTSCH: We had some difficulty of that kind. The Americans put up the money and there was a tendency for the Japanese to buy in the United States. But we have been able to get in on it increasingly.

Mr. CRESTOHL: Has there been any encounters with respect to dealings with blocked currency countries such as the middle East block or the Arab countries, or were they all largely individual countries?

Mr. MCKINNON: As far as negotiations at Torquay were concerned, they were entirely with individual countries.

Mr. ADAMSON: I wonder if we could have the things Germany wanted—to fill out the other half of the picture.

Mr. CALLAGHAN: Germany submitted a very comprehensive list of requests on Canada. It covered about 150 items—somewhere in that neighbourhood. We gave Germany concessions on about 30 items of interest to that country.

During the negotiations the Germans realized many of their requests were impossible to grant and they agreed to divide them into categories 1, 2 and 3.

No. 1 items were the ones they regard as being most important; No. 2, they were interested; No. 3—well, if we could do something they would appreciate it.

The negotiations dragged on during nearly the whole time we were at Torquay. The German request list was based on their trade with Canada in 1933 and 1934. They kept telling us that they did a substantial business in these products during those years and that they would like to get back into the Canadian market. It was a difficult request list but in the end we satisfied the Germans by giving them concessions on certain items. Those items represent in a general way the nature of the goods that were in the original request list.

There was a duty free binding on tree seeds which is not very important. They asked for a binding on tourist literature issued by national or state governments or departments thereof. It was already duty free so we bound that item.

They asked for a binding of the tariff item covering advertising and printed matter generally, which is a very complicated item. We did not make any reduction but gave them a binding on that item with all its provisos. The bulk of it is ten cents a pound but not less than 25 per cent.

Oxalic acid was previously dateable at 10 per cent, we reduced the rate to $7\frac{1}{2}$ per cent. Formic acid has been reduced from 15 per cent to $12\frac{1}{2}$ per cent. Those were two chief items in the chemical field.

The tariff was reduced from $22\frac{1}{2}$ per cent to $17\frac{1}{2}$ per cent on artists' brushes. They were interested in activated clay, when imported for use in the refining of oils. This product has been 10 per cent since 1939, and we bound the existing rate. The requested tariff concessions on toilet articles of all kinds including atomizers, brushes, buffers, button hooks, combs, cuticle knives, hair receivers, hand mirrors, jewel boxes, manicure scissors, nail files, perfume bottles, puff jars, shoe horns, trays and tweezers, of which the manufactured component material of chief value is sterling silver. We reduced the rate on these articles from 30 per cent to 25 per cent.

Then they discussed clocks, cuckoo clocks, and clocks that stand about a foot high. We gave them a very slight reduction on clocks other than alarm clocks, not being electric. The present tariff is 30 per cent with a minimum duty of not less than 40 cents each. We reduced it to 25 per cent without the minimum duty.

The only concession we gave them on steel products was on chains of iron or steel. The rate was 25 per cent and which we reduced to $22\frac{1}{2}$ per cent.

They were also after concessions on printing machinery. We gave them a binding on item 412d, the item covering offset presses, lithographic presses, printing presses and typemaking accessories therefor.

They put great pressure on Canada for concessions on cutlery of all kinds. We gave them a reduction on penknives, jackknives and pocket knives—from 20 per cent to $17\frac{1}{2}$ per cent, and a reduction on razors and complete parts thereof, and razor blades n.o.p., from $27\frac{1}{2}$ per cent to 25 per cent. These razors referred to are the old fashioned straight razors.

The next item we gave a concession on dealt with photographic cameras and equipment. Item 462a which has been referred to the Tariff Board and reported about the middle of 1950. It was held for the negotiations at Torquay. It was a very valuable concession because it reduced the tariff on certain cameras and parts from various rates to "free". They appreciated that item although the chief beneficiary, regardless, will probably be the United States.

We gave them a reduction from 35 per cent to 30 per cent on woven or braided fabrics not exceeding 12 inches in width, whether with cut pile or not, wholly or in part of wool.

We gave them a reduction on mouth-organs from $17\frac{1}{2}$ per cent to 10 per cent; gramophone needles from 20 per cent to 15 per cent.

They asked for and were interested in a concession on whips of all kinds, including thongs and lashes. We reduced the rate from $27\frac{1}{2}$ per cent to $22\frac{1}{2}$ per cent.

They pressed for concessions on toys of all kinds but the only concession we gave them was on mechanical toys of metal which we reduced from 30 per cent to 25 per cent.

On lead pencils and crayons the reduction was from 30 per cent to 27½ per cent. On crayons of chalk we gave them a binding of 20 per cent.

Another item was cases for cigar and cigarette holders, cigar and cigarette cases, smokers' sets. The reduction on these was from 25 per cent to 22½ per cent.

Lastly we gave them a substantial reduction on an item covering higher fatty alcohols, unsulphated, when imported by manufacturers of synthetic detergents for use exclusively in the manufacture of synthetic detergents. This item is of considerable interest to the United States. We reduced the tariff from 20 per cent ad valorem to one-third of a cent per gallon. One-third of a cent per gallon is very low. The rate of one-third of a cent a gallon was used because benzol products used for the same purpose now carry a rate of one-third of a cent.

That is a complete list of the tariff concessions given to Germany. It represents the nature of the goods Germany was interested in and I must add that the Germans were happy in regard to the tariff concessions they received after many months of negotiations.

By Mr. Laing:

Q. What was done on steel?—A. The only thing on iron and steel was chains.

Q. No plate or structural steel?—A. No, they asked for some of those things, but received the concession just on finished chain.

Mr. ASHBOURNE: I wonder if one of the witnesses would like to make a statement regarding the trade with Spain negotiations. I am thinking particularly of trying to get sales of Newfoundland fish into Spain again. In the past they sold a lot of fish there.

Mr. McKINNON: We could not negotiate with Spain because Spain was not represented at Torquay.

If I might revert to the list Mr. Callaghan read—some members of the committee may feel that on the exports in which Germany has a traditional interest, the rate of reduction was rather derisory. However, we had to keep in mind that until recently western Germany was paying the general tariff on her goods entering Canada. One result of joining the general agreement is that she goes from the general tariff to the m.f.n. tariff. She has regained a very large instalment of benefit free and gratis. Therefore, we did not feel—in spite of the fact that we got very substantial concessions on the important products Dr. Isbister referred to—that we need give her very much in return.

The CHAIRMAN: It is now nearly 6 o'clock. With respect to our next meeting shall we tentatively say Wednesday afternoon?

Agreed.

I should also like to mention to the representatives of the various parties that I would like to have their names for the agenda committee. Several organizations have submitted representations and I would like the agenda committee to deal with them.

APPENDIX A

TARIFF ITEMS

Number of Items in printed tariff	1927
Number of new items in Torquay Agreement	97
Number of new items in 1951 Budget	14

Total of items	2038
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Items duty free under B.P., M.F.N. and General:

in printed tariff	433
in Torquay	7
in 1951 Budget	6

Total	446
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Items duty free under B.P. and M.F.N.:

in printed tariff	125
in Torquay	15
in 1951 Budget	1

Total	141
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Items duty free under the B.P. tariff only:

in printed tariff	569
in Torquay	6
in 1951 Budget	1

Total	576
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This leaves 875 items dutiable under the B.P., M.F.N. and General Tariffs. This does not mean that only 875 items carry a margin of tariff preference for products of British Commonwealth origin. To this figure should be added the 576 items that are duty free under the B.P. only. It could be safely stated that a preference exists today on about 1,450 items.

W. J. CALLAGHAN,
Commissioner of Tariff.

OTTAWA,
May 28, 1951.

APPENDIX B

Statement showing the British Preferential and Most-Favoured-Nation Rates of duty in effect prior to and after the Torquay Tariff negotiations

and

the total imports from all countries during the calendar year 1949 of the products listed in Schedule V to the Torquay Trade Agreement

SCHEDULE V—CANADA

PART I—MOST-FAVOURLED-NATION TARIFF

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
8a	Canned pork.....	15 p.c.	15 p.c.	30 p.c.	25 p.c.	\$ *
8f	Canned poultry or game, n.o.p.....	15 p.c.	15 p.c.	20 p.c.	15 p.c.	(a) 139,286
9	Poultry and game, n.o.p.....	12½ p.c.	12½ p.c.	15 p.c.	12½ p.c.	242,180
10	Meats, prepared or preserved, other than canned:— Ex. (a) Salt pork in barrels.....	Free	Free	1½ cts. lb.	Free	1,160,000
Ex. 17	Ex. (b) Salt beef in barrels.....	Free	Free	2 cts. lb.	Free	4,700,000
	Cheddar cheese..... per pound	3 cts.	3 cts.	3½ cts.	3 cts.	*
18a	Peanut butter..... per pound	4 cts.	3 cts.	6 cts.	5 cts.	*
19	Cocoa shells and nibs.....	7½ p.c.	7½ p.c.	10 p.c.	7½ p.c.	*
23	Preparations of cocoa or chocolate, n.o.p., and confectionery, coated with or containing chocolate.....	15 p.c.	10 p.c.	25 p.c.	20 p.c.	743,535
26	Coffee, roasted or ground..... per pound	2 cts.	2 cts.	4 cts.	4 cts.	(a) 99,553

28	(i) Coffee, green, when imported by manufacturers of coffee extract, for use exclusively in the manufacture of coffee extract, in their own factories..... per pound	Free	Free	1 ct.	*
	(ii) Coffee, green, n.o.p..... per pound	Free	Free	2 cts.	(b) 28, 584, 264
34	Mustard, ground..... per pound	Free	Free	20 p.c.	350, 633
36	Compressed yeast, in bulk or mass of not less than fifty pounds..... per pound	Free	Free	2½ cts.	16, 305
40	Salt for the use of the sea or gulf fisheries.....	Free	Free	Free	548, 032
41	Salt, n.o.p., in bags, barrels and other coverings..... per one hundred pounds	Free	Free	3½ cts.	240, 806
42	Salt, in bulk, n.o.p..... per one hundred pounds	Free	Free	3 cts.	779, 034
43	(1) Condensed milk, the weight of the packages to be included in the weight for duty..... per pound	2½ cts.	2½ cts.	3 cts.	757
	(2) Evaporated milk, the weight of the packages to be included in the weight for duty..... per pound	2½ cts.	2½ cts.	3 cts.	
43a	(1) Dried whey, dried skim milk, and dried buttermilk for animal or poultry feeds..... per pound	2½ cts.	2½ cts.	3½ cts.	80, 505
	(2) Powdered milk, n.o.p., the weight of the packages to be included in the weight for duty..... per pound	2½ cts.	2½ cts.	4 cts.	1, 297
45	Milk foods, n.o.p.....	20 p.c.	17½ p.c.	17½ p.c.	80, 314
53a	Corn grits for use in the manufacture of corn flour.....	Free	Free	Free	40, 000
Ex. 54	Corn grits, n.o.p.....	10 p.c.	7½ p.c.	7½ p.c.	*
69a	Cattle food containing molasses.....	10 p.c.	5 p.c.	10 p.c.	6, 518
Ex. 71b	White clover seed (ladino)..... per pound	Free	Free	2 cts.	40, 000
71c	Tree seeds for reforestation purposes only.....	Free	Free	Free	*
72e	Bent grass seed, not to include red-top grass seed.....	15 p.c.	7½ p.c.	15 p.c.	60, 274

* Not separately recorded.

^(a) Included imports of coffee imitations and substitutes.

(a) Includes imports of coffee and coffee substitutes.

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVOURLED-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
Ex. 73	Field seeds, n.o.p., when in packages weighing more than one pound each, viz.:— Orchard grass..... Blue grass..... Rye-grass..... Meadow fescue..... Red fescue.....	5 p.c. 5 p.c. 5 p.c. 5 p.c. 5 p.c.	5 p.c. 5 p.c. 5 p.c. 5 p.c. 5 p.c.	7½ p.c. 7½ p.c. 7½ p.c. 7½ p.c. 7½ p.c.	5 p.c. 5 p.c. 5 p.c. 5 p.c. 5 p.c.	30,000
76g	Seeds, viz.:—Canary, mustard, celery and sunflower, when in packages weighing more than one pound each, imported for use exclusively in manufacturing or blending operations.....	5 p.c.	5 p.c.	7½ p.c.	5 p.c.	397,013
77a	Cocoa beans, not roasted, crushed or ground..... per one hundred pounds	Free	Free	\$1.50	\$1.00	10,177,672
77b	Vanilla beans, crude only.....	Free	Free	5 p.c.	2½ p.c.	162,571
85	(b) Mushrooms, dried or otherwise preserved.....	Free	Free	15 p.c.	12½ p.c.	(a) 60,006
89	Vegetables, prepared, in air-tight cans or other air-tight containers, the weight of the containers to be included in the weight for duty:— (a) Beans, baked or otherwise prepared..... per pound	Free	Free	1½ cts.	1 ct.	1,640
Ex. 90a Ex. 711	Soya bean flour, n.o.p.....	15 p.c.	15 p.c.	20 p.c.	17½ p.c.	137,824
90b	Vegetables, pickled or preserved in salt, brine, oil or in any other manner, n.o.p.....	15 p.c.	12½ p.c.	22½ p.c.	20 p.c.	285,712
90d	Vegetable pastes and hash and all similar products composed of vegetables and meat or fish, or both, n.o.p.....	7½ p.c.	7½ p.c.	25 p.c.	20 p.c.	17,244
Ex. 90d	Pâtés de foie with truffles.....	7½ p.c.	Free	25 p.c.	10 p.c.	*
90e	Vegetables, frozen.....	10 p.c.	10 p.c.	20 p.c.	17½ p.c.	23,578

		15 p.c.	15 p.c.	25 p.c.	20 p.c.	
91	Soups, soup rolls, tablets, cubes, or other soup preparations, n.o.p.....					3,076
93	Apples, fresh, in their natural state, the weight of the packages to be included in the weight for duty:— May 20 to July 31, inclusive.....per pound August 1 to May 19, inclusive.....	Free Free	Free Free	Free ^(a) $\frac{3}{4}$ ct. ^(b)	Free $\frac{3}{4}$ ct.	451,984
98	Bananas.....per one hundred pounds	Free	Free	50 cts. per stem or bunch	50 cts.	17,033,884
99d	Dates, unpitted, in bulk.....per pound	Free	Free	$\frac{1}{2}$ ct.	$\frac{1}{2}$ ct.	484
99e	(1) Dates, pitted, when in packages or containers weighing not less than ten pounds each.....	Free	Free	Free	Free	
	(2) Dates, n.o.p.....per pound When in packages weighing two pounds each, or less, the weight of such packages to be included in the weight for duty.	1 ct.	1 ct.	$1\frac{1}{2}$ cts.	$1\frac{1}{2}$ cts.	2,110,920
99f	Ex. (2) Dates, unpitted, when in packages weighing two pounds each, or less, the weight of such packages to be included in the weight for duty.....per pound	1 ct.	$\frac{1}{2}$ ct.	$1\frac{1}{2}$ cts.	$\frac{1}{2}$ ct.	*
	Figs, dried.....per pound When in packages weighing two pounds each, or less, the weight of such packages to be included in the weight for duty.	Free	Free	$\frac{1}{2}$ ct.	$1\frac{1}{3}$ ct.	600,634
101a	Lemons.....	Free	Free	Free	Free	2,220,772
103	Fruits preserved in brandy, or preserved in other spirits, and containing not more than forty per cent of proof spirit in the liquid contents thereof.....per gallon and	\$2 50 30 p.c.	\$2 00 15 p.c.	\$2 50 30 p.c.	\$2 00 15 p.c.	91,495
104	Fruits preserved in brandy, or preserved in other spirits, and containing more than forty per cent of proof spirit in the liquid contents thereof.....per gallon and	\$5 00 30 p.c.	\$3 00 15 p.c.	\$5 00 30 p.c.	\$3 00 15 p.c.	
105a	Lemon, orange, grapefruit and citron rinds, fresh, frozen, dried, sulphured or in brine.....	Free	Free	Free	Free	135,869

*Not separately recorded.

^(a) Includes truffles.^(b) Free May 20 to July 12; $\frac{3}{4}$ ct. July 13 to May 19.

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVoured-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
		1½ cts.	1½ cts.	3¼ cts.	3 cts.	\$ 178,673
105f	Jellies, jams, marmalades, preserves, fruit butters and condensed mince-meats.....per pound	20 p.c.	20 p.c.	27½ p.c.	25 p.c.	
105g	(1) Fruits and peels, crystallized, glacé, candied or drained.....	20 p.c.	20 p.c.	27½ p.c.	25 p.c.	37,024
	(2) Cherries and other fruits of crème de menthe, maraschino or other flavour					
Ex. 109	Walnuts, shelled or not.....	1 ct. lb.	Free	1 ct. lb.	Free	3,655,854
110	Cocoanuts.....per one hundred	Free	Free	50 cts.	50 cts.	118,942
113	Cocoanut, desiccated, sweetened or not.....per pound	2 cts.	2 cts.	3 cts.	3 cts.	2,355,490
113a	Copra or broken cocoanut meat, not shredded, desiccated or prepared in any manner.....					
115a	Herring, fresh.....	Free	Free	Free	Free	4,681,662
Ex. 118b	Crabs in sealed containers.....	Free	Free	Free	Free	21,049
121	Fish preserved in oil, n.o.p.....	17½ p.c.	17½ p.c.	40 p.c.	30 p.c.	*
Ex. 121	Bonito preserved in oil.....	15 p.c.	15 p.c.	25 p.c.	20 p.c.	137,905
123	Fish, prepared or preserved, n.o.p.:— (d) Salmon.....	15 p.c.	15 p.c.	25 p.c.	17½ p.c.	*
133	All other articles the produce of the fisheries, n.o.p.....	17½ p.c.	15 p.c.	27½ p.c.	15 p.c.	17,045
Ex. 133	Shrimp, fresh or frozen.....	15 p.c.	12½ p.c.	20 p.c.	17½ p.c.	485,093
136a	Molasses of cane, testing by polariscope under thirty-five degrees but not less than twenty degrees.....per gallon	15 p.c.	12½ p.c.	20 p.c.	12½ p.c.	*
		Free	Free	1 ct.	1 ct.	675,970

141	Sugar candy and confectionery, n.o.p., including sweetened gums, candied popcorn, candied nuts, flavoured powders, custard powders, jelly powders, sweetmeats, sweetened breads, cakes, pies, puddings and all other confections containing sugar.....	15 p.c.	12½ p.c.	25 p.c.	22½ p.c.	1,017,877
Ex. 141	Chestnut cream or paste, sweetened or not sweetened.....	15 p.c.	Free	25 p.c.	7½ p.c.	*
142	Tobacco, unmanufactured, for excise purposes under conditions of the Excise Act, subject to such regulations as may be prescribed by the Minister:— (a) Of the type commonly known as Turkish:— (i) Unstemmed..... per pound (ii) Stemmed..... per pound (b) N.o.p.:— Ex. (i) Unstemmed, when imported by cigar manufacturers for use exclusively in the manufacture of cigars in their own factories..... per pound Ex. (ii) Stemmed, when imported by cigar manufacturers for use exclusively in the manufacture of cigars in their own factories..... per pound Provided that the duty under this Item shall be levied on the basis of "Standard leaf tobacco", consisting of ten per centum of water and ninety per centum of solid matter.	20 cts. 30 cts.	12 cts. 30 cts.	30 cts. 40 cts.	22 cts. 40 cts.	252,817 (^a)
144	Cut tobacco..... per pound	20 cts.	15 cts.	20 cts.	15 cts.	400,000 (^b)
152	Fruit juices and fruit syrups, n.o.p., viz:— (f) Grapefruit juice.....	30 cts.	22½ cts.	30 cts.	22½ cts.	10,000 (^b)
153a	Grape juice in containers of more than one gallon capacity each:— Testing not more than 1.074 specific gravity at 60 degrees temperature..... per gallon And in addition thereto, for each increment of 0.01 in specific gravity above 1.074..... per gallon	80 cts.	65 cts.	80 cts.	65 cts.	370,403
157c	Isopropyl alcohol.....	Free	Free	15 p.c.	10 p.c.	2,320,637
158a	Methyl alcohol, when imported by manufacturers for use exclusively in the manufacture of formaldehyde, in their own factories, subject to the provisions of the Excise Act, and regulations.....	20 cts. 3 cts.	15 cts. 3 cts.	25 cts. 3 cts.	20 cts. 3 cts.	(^c) 74,406
		Free	Free	50 cts.	25 cts.	*
		Free	Free	Free	Free	*

* Not separately recorded.

(^a) No imports since 1939; (^b) Estimated.(^c) No imports since 1948.

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVoured-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
159a	Spirits and strong waters of any kind, mixed with any ingredient or ingredients, as being or known or designated as anodynes, elixirs, tinctures or medicines, n.o.p.....per gallon and	\$3.00 30 p.c.	\$2.00 20 p.c.	\$3.00 30 p.c.	\$2.00 20 p.c.	\$ 377,937
160	Alcoholic perfumes:— (a) When in bottles or flasks containing not more than four ounces each (b) When in bottles, flasks or other packages, containing more than four ounces each.....per gallon and	30 p.c.	25 p.c.	30 p.c.	25 p.c.	(a) 171,287
161	Perfumed spirits, bay rum, cologne and lavender waters, lotions, hair, tooth and skin washes, and other toilet preparations containing spirits of any kind:— (a) When in bottles or flasks containing not more than four ounces each (b) When in bottles, flasks or other packages, containing more than four ounces each:— (1) Valued at not more than \$8.00 per gallon.....per gallon and (2) Valued at more than \$8.00 per gallon.....per gallon and	\$5.00 30 p.c.	\$4.00 20 p.c.	\$5.00 30 p.c.	\$4.00 25 p.c.	(b) 66,349
				45 p.c.	30 p.c.	*
					\$2.00 20 p.c.	*
					\$5.00 30 p.c.	*
					\$3.00 20 p.c.	*

165	Champagne and all other sparkling wines:— (a) In bottles containing each not more than a quart but more than a half pint (old wine measure).....per dozen bottles And in addition thereto, under all tariffs, \$1.75 per gallon.	\$5.00	\$4.00	\$5.00	\$4.00	
	(b) In bottles containing not more than a pint each, but more than one-half pint (old wine measure).....per dozen bottles And in addition thereto, under all tariffs, \$1.75 per gallon.	\$2.50	\$2.00	\$2.50	\$2.00	
	(c) In bottles containing one-half pint each or less.....per dozen bottles And in addition thereto, under all tariffs, \$1.75 per gallon.	\$1.25	\$1.00	\$1.25	\$1.00	252,600
	(d) In bottles containing over one quart each (old wine measure).....per gallon And in addition thereto, under all tariffs, \$1.75 per gallon.	\$2.50	\$2.00	\$2.50	\$2.00	
Ex. 166	Acetone.....	10 p.c.	5 p.c.	30 p.c.	25 p.c.	156,746
Ex. 166	Amyl acetate.....	10 p.c.	10 p.c.	30 p.c.	25 p.c.	6,067
168a	Malt syrup, malt syrup powder, or other starch conversion products produced by the action of enzymes on starch, not including any such products used in the brewing of beer.....					
172a	Tourist literature issued by national or state governments or departments thereof, boards of trade, chambers of commerce, municipal and automobile associations, and similar organizations.....	20 p.c.	20 p.c.	25 p.c.	22½ p.c.	236,994
178	Advertising and printed matter, viz.:—Advertising pamphlets, advertising show cards, illustrated advertising periodicals; price books, catalogues and price lists; advertising almanacs and calendars; patent medicine or other advertising circulars, fly sheets or pamphlets; advertising chromos, chromotypes, oleographs or like work produced by any process other than hand painting or drawing, and having any advertisement or advertising matter printed, lithographed or stamped thereon, or attached thereto, including advertising bills, folders and posters, or other similar artistic work, lithographed, printed or stamped on paper or cardboard for business or advertisement purposes, n.o.p....per pound but not less than	Free	Free	Free	Free	*
	(a) Provided that goods specified in this Item shall be exempt from customs duty when produced in countries entitled to the British Preferential Tariff and relating exclusively to products or services of such British countries, but not relating to Canadian products or services.	5 cts.	5 cts.	10 cts. 25 p.c.	10 cts. 25 p.c.	3,866,475

* Not separately recorded.

(a) Includes imports under Item 161(a).

(b) Includes imports under Item 161(b).

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVOURLED-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
178	<p>(b) Provided that on goods specified in this Item when forwarded to Canada by mail, duties may be prepaid by customs duty stamps, under regulations by the Minister, at the rate specific in the Item, except that on each separate package weighing not more than one ounce, the duty shall be each.....</p> <p>(c) Provided that bona fide trade catalogues and price lists not specially designed to advertise the sale of goods by any person in Canada, when sent into Canada in single copies addressed to merchants therein, and not exceeding one copy to any merchant for his own use, but not for distribution, shall be exempt from customs duty under all Tariffs.</p>	1 ct.	1 ct.	2 cts.	2 cts.	^s
188a	(d) Provided that advertising and printed matter, whether imported by mail or otherwise, when in individual packages valued at not more than \$1.00 each and when not imported for sale or in a manner designed to evade payment of customs duties, shall be exempt from customs duty when produced in countries entitled to the British Preferential or the Most-Favoured-Nation Tariff.					*
192e	Decalcomania paper not printed when imported by manufacturers of decalcomania transfers to be used in their own factories in the manufacture of decalcomania transfers.....	Free	Free	Free	Free	80,840
197a	Gasket stock, wholly or in part of vegetable fibres, coated or impregnated, in sheets or rolls, when imported by manufacturers of gaskets, for use only in the manufacture of gaskets in their own factories.....	Free	Free	Free	Free	475,359
198a	Super-calendered or machine finish grades of book paper, not coated, when used exclusively in the production of magazines, newspapers and periodicals, printed, published or issued regularly, under regulations prescribed by the Minister.....	12½ p.c.	Free	22½ p.c.	Free	158,663
	Coated papers, when used exclusively in the production of magazines, newspapers and periodicals printed, published and issued regularly, under regulations prescribed by the Minister.....	17½ p.c.	Free	32½ p.c.	Free	30

198c Ex. 198 Ex. 401 (g) et al	Tape or wire, coated or not, for use exclusively in the recording and reproduction of sound:— (1) Of iron or steel..... (2) N.o.p.....	17½ p.c. 15 p.c. 5 p.c.	10 p.c. 5 p.c.	25 p.c. 15 p.c. 10 p.c.	10 p.c. 10 p.c.	10,000
Ex. 199	Matches of paper.....	17½ p.c.	7½ p.c.	25 p.c.	15 p.c.	10,000
199d	Cigarette papers, gummed or not, in tubes, booklets or packets.....	17½ p.c.	15 p.c.	20 p.c.	15 p.c.	41,206
199e	Caps or hoods of paper, for use exclusively in protecting young plants in field or garden.....	Free	Free	Free	Free	6,183
199i	Trays or pulp or pulp board imported for use exclusively in the packaging of apples in their natural state.....	Free	Free	7½ p.c.	7½ p.c.	21,349
Ex. 205	Ginseng, unground.....	Free	Free	Free	Free	*
205a	Cassava root, unground.....	Free	Free	Free	Free	*
206a	(1) Sera and antisera, toxoids, viruses, toxins and antitoxins; virus and bacterial vaccines, bacteriophage and bacterial lysates; blood plasma or serum of human origin or fractions thereof; allergenics, liver extracts, pituitary extracts, epinephrine and its solutions, insulin, with or without zinc, globin or protamine; all of the foregoing when imported for parenteral administration in the diagnosis or treatment of diseases of man..... (2) Biological products, animal or vegetable, n.o.p., for parenteral administration in the diagnosis or treatment of diseases of animals or poultry, when imported under permit of the Veterinary Director General.....	Free	Free	Free	Free	1,019,779
Ex. 208	Iodine, crude.....	Free	Free	Free	Free	102,080
208q	Oxalic acid.....	Free	Free	Free	Free	119,141
210d	Sodium, sulphate of, crude, or salt cake..... per pound	½ ct.	½ ct.	½ ct.	½ ct.	65,722
211b	Kyanite, crude or calcined, but not further processed than ground.....	Free	Free	Free	Free	56,608
Ex. 213	Vinegar:—per gallon of any strength not exceeding the strength of proof..... And in addition thereto, for each degree of strength in excess of the strength of proof.....	10 cts.	10 cts.	12½ cts.	10 cts.	21,315
	Provided that the strength of proof shall be held to be equal to six per cent of absolute acid, and shall be determined in the manner prescribed by the Governor in Council.	1½ cts.	1½ cts.	1½ cts.	1½ cts.	

* Not separately recorded.

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVOURABLE-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
Ex. 216	Formic acid.....	Free	Free	15 p.c.	12½ p.c.	\$ 62,570
Ex. 216	Chromium trioxide, dihydroxydiphenyl sulphone, monobutyl phenyl-phenol sodium monosulfonate, phenol sulphonic acid and stannous sulphate, imported for use exclusively in the production of tin plate.....	Free	Free	15 p.c.	Free	(a) 100,000
219a	Non-alcoholic preparations or chemicals for disinfecting, or for preventing, destroying, repelling, or mitigating fungi, weeds, insects, rodents, or other plant or animal pests, n.o.p.:— (i) When in packages not exceeding three pounds each, gross weight. (ii) Otherwise.....	Free Free	Free Free	12½ p.c. 7½ p.c.	12½ p.c. Free	280,537 1,856,350
219f	Riboflavin (also known as Vitamin B ₂ , Vitamin G, Lactoflavin) without admixture or mixed only with any necessary carrier or dilutant when imported for use only in the manufacture of feeds for livestock, poultry or fur-bearing animals.....	Free	Free	Free	Free	95,422
219g	Yeast, dead or inactive, containing only those vitamins inherent in or developed by the yeast during its culture or propagation in which the Vitamin D does not exceed 1,000 International units per gram, when valued at more than twenty-five cents per pound, under regulations which the Minister may prescribe.....	Free	Free	Free	Free	71,816
220	All medicinal and pharmaceutical preparations, compounded of more than one substance, including patent and proprietary preparations, tinctures, pills, powders, troches, lozenges, filled capsules, tablets, syrups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters, essences and oils, n.o.p.:— (i) When dry..... (ii) Liquid, when containing not more than two and one-half per cent of proof spirit..... (iii) All others..... Provided that any article in this item containing more than forty per cent of proof spirit shall be rated for duty at..... per gallon and	17½ p.c. 17½ p.c. 60 p.c. \$3.00 30 p.c.	17½ p.c. 17½ p.c. 25 p.c. \$2.00 20 p.c.	20 p.c. 22½ p.c. 60 p.c. \$3.00 30 p.c.	20 p.c. 20 p.c. 25 p.c. \$2.00 20 p.c.	6,512,423

220	Provided, also, that drugs, pill-mass and preparations, not including pills or medicinal plasters, recognized by the British or United States pharmacopoeia, the Canadian Formulary or the French Codex as official, shall not be held to be covered by this item.	17½ p.c.	12½ p.c.	20 p.c.	12½ p.c.	*
	Ex. (i) Sulfamethylthiadiazole, in tablet form.....					
220a	Chemical preparations, compounded of more than one substance, n.o.p.:—					
	(i) When dry, or liquid containing not more than two and one-half per cent of proof spirit.....	15 p.c.	15 p.c.	20 p.c.	20 p.c.	21, 295, 234
220a	(ii) All others.....	25 p.c.	25 p.c.	25 p.c.	25 p.c.	
	Provided that any article in this item containing more than forty per cent of proof spirit shall be rated for duty at..... per gallon and	\$3.00 30 p.c.	\$2.00 20 p.c.	\$3.00 30 p.c.	\$2.00 20 p.c.	
220a	Ex. (i) Chemical preparations, dry, compounded of more than one substance when imported by manufactures of fluorescent lamps for use exclusively in coating the inside of fluorescent lamps: in their own factories.....	5 p.c.	Free	10 p.c.	5 p.c.	300,000
	Gasoline anti-oxidants for use in the production of gasoline.....	15 p.c.	15 p.c.	20 p.c.	20 p.c.	197,458
220c	Candles.....	15 p.c.	15 p.c.	22½ p.c.	20 p.c.	125,067
222c	Gelatine, edible.....	10 p.c.	7½ p.c.	25 p.c.	22½ p.c.	1,525,771
234	Perfumery, including toilet preparations, non-alcoholic, viz.:—Hair oils, tooth and other powders and washes, pomatums, pastes and all other perfumed preparations, n.o.p., used for the hair, mouth or skin.....	15 p.c.	15 p.c.	25 p.c.	22½ p.c.	51,329
245	Ochres, ochrey earths, siennas and umbers.....	5 p.c.	5 p.c.	15 p.c.	12½ p.c.	85,171
247a	(2) Artists' brushes; pastels, of a value of one cent per stick, or over; artists' canvas, coated and prepared for oil painting.....	Free	Free	22½ p.c.	17½ p.c.	316,489
257	Writing ink.....	15 p.c.	15 p.c.	22½ p.c.	20 p.c.	53,186
264	Essential oils, natural, viz.:—					
Ex. 264a	Geranium, rose, ylang-ylang, lemon, bergamot, orange, mandarin, citronella, vetiver, clove and lemon grass.....	Free	Free	Free 7½ p.c.	Free	283,171
Ex. 265a	Menhaden oil.....	12½ p.c.	12½ p.c.	20 p.c.	17½ p.c.	80,000

(a) Estimated.

* Not separately recorded.

(b) Includes imports under Item 247a(1).

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVOURLED-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
271	Lubricating oils composed wholly or in part of petroleum:— (a) Valued at less than 25 cents per gallon..... per gallon	1½ cts.	1½ cts.	2½ cts.	2½ cts.	\$ 1,725,916
	(b) N.o.p.....	10 p.c.	10 p.c.	12½ p.c.	12½ p.c.	2,943,889
272a	Petroleum greases and lubricating greases, n.o.p.....	12½ p.c.	12½ p.c.	17½ p.c.	15 p.c.	972,014
272b	Paraffin wax, n.o.p.....	15 p.c.	15 p.c.	22½ p.c.	17½ p.c.	1,614,209
272c	Paraffin wax when imported for use exclusively in the manufacture of candles	10 p.c.	Free	12½ p.c.	Free	
280a	Inedible oils, without admixture, obtained from animal fat, for use in the manufacture of soap or oils.....	Free	Free	Free	Free	4,929
284b	Gypsum tile.....	15 p.c.	15 p.c.	20 p.c.	20 p.c.	*
284c	Earthenware tiles, n.o.p.....	15 p.c.	12½ p.c.	25 p.c.	22½ p.c.	944,800
289	Baths, bathtubs, basins, closet seats and covers, closet tanks, lavatories, urinals, sinks and laundry tubs of earthenware, stone, cement, clay or other material, n.o.p.....	15 p.c.	12½ p.c.	25 p.c.	22½ p.c.	
291	White portland cement clinker for use in the manufacture of white portland cement..... per one hundred pounds	15 p.c.	12½ p.c.	25 p.c.	22½ p.c.	2,642,107
295c	Activated clay, when imported for use in the refining of oils.....	2 cts.	2 cts.	3-6 cts.	3½ cts.	131,927
296f Ex. 711	Limestone, not further processed than crushed or screened.....	10 p.c.	10 p.c.	10 p.c.	10 p.c.	265,793
296i	Mica, phlogopite and muscovite, unmanufactured, in blocks, sheets, splittings, films, waste and scrap.....	Free 15 p.c.	Free	Free 20 p.c.	Free	100,000
313	Plumbago, not ground or otherwise manufactured; plumbago flakes.....	12½ p.c.	10 p.c.	12½ p.c.	10 p.c.	*
Ex. 314	Plumbago, ground, and manufactures of n.o.p.....	Free	Free	7½ p.c.	5 p.c.	83,301
		15 p.c.	15 p.c.	22½ p.c.	20 p.c.	293,267

316	Electric light and arc carbons, pointed or not, and contact carbons, n.o.p., and, per pound	22½ p.c.	22½ p.c.	25 p.c. 10 cts.	22½ p.c. 7½ cts.	60,423
325	Stained or ornamental glass windows	15 p.c.	7½ p.c.	15 p.c.	7½ p.c.	66,935
326	(1) Demi-johns or carboys, bottles, flasks, phials, jars and balls, of glass, not cut, n.o.p.; lamp chimneys of glass, n.o.p.; decanters and machine-made tumblers of glass, not cut nor decorated, n.o.p.	15 p.c.	15 p.c.	22½ p.c.	20 p.c.	3,413,339
326j	Glass balls or marbles when imported by manufacturers of glass fibres or glass yarn, for use exclusively in the manufacture of such fibres or yarn in their own factories	Free	Free	Free	Free	20,100
327	Spectacles; eyeglasses, and ground or finished spectacle or eyeglass lenses, n.o.p.	20 p.c.	20 p.c.	22½ p.c.	20 p.c.	388,251
Ex. 329	Tungsten ore	Free	Free	Free	Free	34,613
Ex. 329a 340c	Chromite iron ore	Free	Free	Free	Free	1,000,000
348f	Zinc sheets, not planished, ground or polished, coated on one side with acid-resisting material, imported by planishers, grinders or polishers of zinc sheets to be used exclusively in the planishing, grinding, polishing or other processing of such sheets, ready for use by photo engravers	Free	Free	Free	Free	*
352 Ex. 445k	Copper covered steel wire not less than one-quarter inch in diameter and rods, when imported by manufacturers of trolley, telegraph and telephone wires, electric wires and electric cables, for use only in the manufacture of such articles in their own factories	Free	Free	10 p.c.	10 p.c.	581,110
352d	Bells, electronically operated or not, including amplifiers, drivers, reproducers, transformers, keyboards, automatic control coders, pealing devices (strikes), and perforated roll players, all specially designed for use with such bells, but not to include separate record players, control cabinets containing record playing devices nor microphones; complete parts thereof; the foregoing when for use in churches only	Free 15 p.c.	Free	Free 22½ p.c.	Free	20,000
353	Friction material of metal powders, compressed, sintered and welded or fastened to a solid metal or other backing for support, in strips, sheets, discs, rings, slabs, blocks, bars, rods, tubes and other primary shapes	Free	Free	10 p.c.	10 p.c.	18,099
361	Aluminum and alloys thereof, crude or semi-fabricated (a) Pigs, ingots, blocks, notch bars, slabs, billets, blooms, and wire bars..... per pound	Free	Free	2 cts.	1½ cts.	80,698
	Gold and silver leaf; Dutch or schlag metal leaf; brocade and bronze powders	15 p.c.	12½ p.c.	30 p.c.	25 p.c.	134,145

* Not separately recorded.

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVoured-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
362b	Toilet articles of all kinds, including atomizers, brushes, buffers, button hooks, combs, cuticle knives, hair receivers, hand-mirrors, jewel boxes, manicure scissors, nail files, perfume bottles, puff jars, shoe horns, trays and tweezers, of which the manufactured component material of chief value is sterling silver.....	17½ p.c.	15 p.c.	30 p.c.	25 p.c.	24,840
Ex. 362c	Cigar and cigarette lighters, n.o.p., nickel-plated, gilt or electro-plated....	15 p.c.	15 p.c.	22½ p.c.	22½ p.c.	*
365b	Wire or strip, viz.:—Gold, gold-filled, silver, silver-filled, brass or nickel silver, knurled, twisted, figured or with ornamental design rolled or drawn thereon, and wire of nickel silver, plain, in coil or otherwise, when imported by manufacturers of jewellery or ornaments for the adornment of the person, for use exclusively in the manufacture of such articles, in their own factories.....	Free	Free	15 p.c.	12½ p.c.	943,422
367	Watch cases, and parts thereof, finished or unfinished.....	15 p.c.	15 p.c.	25 p.c.	22½ p.c.	929,173
Ex. 368	Clocks, other than alarm clocks, not being electric.....			30 p.c. but not less than 40 cts. each.	25 p.c.	*
375	Ferro-alloys:— (d) Ferro-silicon, being an alloy of iron and silicon containing 60 per centum or more, by weight, of silicon and less than 90 per centum—per pound, or fraction thereof, on the silicon contained therein.....	Free	Free	2½ cts.	1½ cts.	125,577
376a	Chromium metal and tungsten metal, in lumps, powder, ingots, blocks or bars, and scrap of alloy metal containing chromium and tungsten, when imported by manufacturers for use exclusively for alloying purposes, in their own factories.....	Free	Free	Free	Free	141,531
376b	Materials imported by manufacturers of sintered hard metal compounds of the tungsten carbide type, for use in the manufacture of such compounds in their own factories.....	Free	Free	Free	Free	140,984
378	Bars and rods, of iron or steel; billets, of iron or steel weighing less than 60 pounds per lineal yard:— (b) Not further processed than hammered or pressed, n.o.p.....	10 p.c.	10 p.c.	25 p.c.	20 p.c.	28,473

380	Plates of iron or steel, hot or cold rolled:— (c) Flanged, dish or curved, n.o.p.....	5 p.c.	5 p.c.	25 p.c.	22½ p.c.	240, 327
382	Hoop, band or strip, of iron or steel:— (d) Cold rolled or cold drawn, more than .080 inch in thickness, n.o.p.....	12½ p.c.	12½ p.c.	27½ p.c.	22½ p.c.	256, 450
383	Sheets, plates, hoop, band or strip, of iron or steel:—	10 p.c.	10 p.c.	20 p.c.	20 p.c.	546, 033
386f	(a) Corrugated or pebbled, coated or not.....					
386	Sheets, plates, hoop, band or strip, of iron or steel, as hereunder defined, under regulations prescribed by the Minister:— (d) Sheets, hoop, band or strip, coated or not, polished or not, when imported by manufacturers of saddlery hardware and saddles for use exclusively in the manufacture of such articles, in their own factories.....	Free	Free	Free.	Free	5, 623
386	Sheets, plates, hoop, band or strip, of iron or steel, as hereunder defined, under regulations prescribed by the Minister:— (a) Sheets, plates, hoop, band or strip, not tempered or ground nor further manufactured than cut to shape, without indented edges, when imported for use exclusively in the manufacture of saws or straw cutters.....	Free 7½ p.c. 12½ p.c.	Free	Free 20 p.c. 27½ p.c.	Free	552, 143
388d	(b) Sheets, plates, hoop, band or strip, hardened, tempered or ground, not further manufactured than cut to shape, without indented edges, when imported for use exclusively in the manufacture of saws.....	Free 7½ p.c. 12½ p.c.	Free	7½ p.c. 20 p.c. 27½ p.c.	7½ p.c.	149, 630
388f	Iron or steel angles, beams, channels, columns, girders, joists, piling, tees, zeos, and other shapes or sections, punched, drilled or further manufactured than hot rolled or cast, n.o.p.....	20 p.c.	17½ p.c.	30 p.c.	25 p.c.	861, 305
391	Sash, casement or frame sections of iron or steel, hot or cold rolled, coated or not, not punched, drilled nor further manufactured, and similar material formed from hot or cold rolled iron or steel strip, coated or not, when imported by manufacturers of metal window sash, casements or frames for use in the manufacture of such articles, in their own factories per ton	Free	Free	\$7.00	\$7.00	*
392	Castings of iron or steel:— (a) Being ingot moulds for use in the production of steel..... (b) Being moulds, n.o.p.....	Free Free	Free Free	Free 7½ p.c.	Free 7½ p.c.	1,951,070 80,466
	Forgings, of iron or steel, in any degree of manufacture, n.o.p.....	17½ p.c.	17½ p.c.	25 p.c.	22½ p.c.	711,444

* Not separately recorded.

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVoured-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
398c	Seamless steel tubing, valued at not less than five cents per pound, when imported by manufacturers of roller bearings for use exclusively in the manufacture of such bearings in their own factories.....	Free	Free	Free	Free	\$
401	Wire, of iron or steel:— (a) Barbed fencing, coated or not..... (c) Drawn flat or cold rolled flat after drawing, coated or not, n.o.p., not more than .25 inch in width and less than .1875 inch in thickness. (f) Single or several, coated, n.o.p., or covered with any material, including cable so covered..... (g) N.o.p.....	Free	Free	Free	Free	*
	Ex. (g) Wire for baling farm produce.....	15 p.c.	Free	15 p.c.	Free	130, 873
Ex. 402a	Woven or welded wire fencing, of iron or steel, coated or not, n.o.p.....	17½ p.c.	12½ p.c.	25 p.c.	20 p.c.	79, 271
406	Coil chain, coil chain links, including repair links, and chain shackles, of iron or steel:— (b) Less than one and one-eighth inches in diameter.....	15 p.c.	15 p.c.	30 p.c.	25 p.c.	115, 621
407a	Chains, of iron or steel, n.o.p., and complete parts thereof.....	15 p.c.	15 p.c.	15 p.c.	15 p.c.	1, 821, 655
410a	(iii) Diesel-powered self-propelled trucks, mounted on rubber-tired wheels, side or rear dump, having a rated capacity, by struck volume, of not less than 9½ cubic yards and, by payload weight, of not less than 15 tons and complete parts thereof, for off-highway use in carrying minerals, ores, rock, stone, sand, gravel, and other excavated materials, at mines, quarries, gravel and sand pits or at construction sites.....	Free	Free	10 p.c.	7½ p.c.	100, 000
Ex. 438a				17½ p.c.		256, 910
Ex. 438e(3)				30 p.c.		
et al.						
Ex. 410L	Inserts of tungsten carbide to be brazed to rock drills, when imported by manufacturers for use only in their own factories in the manufacture of hard metal-tipped rock drills.....	5 p.c.	5 p.c.	15 p.c.	10 p.c.	20, 000
Ex. 427		10 p.c.		23 p.c.		
Ex. 711		15 p.c.		20 p.c.		
						(a) 2, 488, 083

4121	Offset presses; lithographic presses; printing presses and typemaking accessories therefor, n.o.p.; complete parts of the foregoing, not to include saws, knives and motive power.....	Free	Free	10 p.c.	10 p.c.	67,553
415a	Refrigerators, domestic or store, completely equipped or not:— (i) Electric..... (ii) Other than electric.....	20 p.c. 20 p.c.	17½ p.c. 17½ p.c.	22½ p.c. 22½ p.c.	20 p.c. 20 p.c.	96,570 254,913
422	Street or road rollers and complete parts thereof.....	Free	Free	25 p.c.	20 p.c.	311,185
423	Electric dental engines.....	Free	Free	22½ p.c.	20 p.c.	107,185
424	Fire engines and other fire extinguishing machines and chassis for same; complete parts other than chassis parts.....	Free	Free	25 p.c.	22½ p.c.	263,968
425	Lawn mowers.....	10 p.c.	10 p.c.	25 p.c.	22½ p.c.	594,542
427	All machinery composed wholly or in part of iron or steel, n.o.p., and complete parts thereof.....	10 p.c.	10 p.c.	25 p.c.	22½ p.c.	(b) 109,838,336
Ex. 427	Seed and grain cleaning machines of screen and air blast type with a capacity not exceeding 100 bushels per hour; complete parts of the foregoing.....	10 p.c.	10 p.c.	25 p.c.	15 p.c.	50,000
427a	All machinery composed wholly or in part of iron or steel, n.o.p., of a class or kind not made in Canada; complete parts of the foregoing.....	Free	Free	10 p.c.	7½ p.c.	(b)
427d	Machines designed for making rigid composite box-ends of wood—consisting of a centre with separate nailing edges attached—from scrap or waste mill stock, and complete parts thereof, not to include motive power.....	Free	Free	25 p.c.	22½ p.c.	207
427f	Machines for the manufacture of veneers and plywoods, viz.:—Veneer clippers; veneer clipper knife jointers; veneer glue spreaders; veneer lathes; automatic veneer reelers with supporting trays and hoists; automatic unrollers; veneer conveyors specially designed for use with automatic veneer reelers and unrollers; veneer taping machines; complete parts of all the foregoing.....	Free	Free	10 p.c.	7½ p.c.	247,380
429	Cutlery of iron or steel, plated or not:— Ex. (a) Knife blades or blanks, and table forks of German silver or of iron or steel, in the rough, not handled, ground nor otherwise manufactured; spoon blanks of German silver or of iron or steel, not further manufactured than stamped to shape.....	Free	Free	7½ p.c. 25 p.c.	7½ p.c.	*
Ex. 357	Cutlery of iron or steel, plated or not:— (c) Penknives, jack-knives and pocket knives of all kinds..... (g) Razors and complete parts thereof; razor blades, n.o.p.....	Free 15 p.c.	Free	20 p.c. 27½ p.c.	17½ p.c. 25 p.c.	662,922 287,933

*Not separately recorded.

(a) Includes imports under 410a(i) and (ii).

(b) Includes Item 427a.

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVOURABLE-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
430e	Wire nails less than one inch in length, and nails, brads or tacks of all kinds, n.o.p., of iron or steel, coated or not.....	15 p.c.	15 p.c.	30 p.c.	27½ p.c.	\$ 146,793
431b	Adzes, anvils, vises, cleavers, hatchets, saws, augers, bits, drills, screw-drivers, planes, spokeshaves, chisels, mallets, metal wedges, wrenches, sledges, hammers, crowbars, catdogs, and track tools, picks, mattocks, and eyes or polls for the same.....	10 p.c.	10 p.c.	25 p.c.	22½ p.c.	5,192,741
Ex. 431b Ex. 446a	Web saws and parts thereof.....	7½ p.c.	7½ p.c.	22½ p.c.	20 p.c.	*
Ex. 431d	Slide rules.....	Free	Free	9 p.c.	7½ p.c.	*
431f	Files and rasps.....	Free	Free	25 p.c.	22½ p.c.	335,214
431g	Fixed or stationary meters, of a size or capacity not made in Canada, for hydraulic engineering; gauges, indicators and recorders for water or other liquid levels, volume or flow, of a class or kind not made in Canada.....	Free	Free	17½ p.c.	15 p.c.	269,103
431h	Geophysical surveying precision instruments and equipment for use exclusively in prospecting for, or in the exploration and development of, petroleum, natural gas, water wells and minerals, or for geophysical studies for engineering projects, including the following:—Magnetometers; gravity meters and other instruments designed to measure the elements, variations and distortions of the natural gravitational force; field potentiometers, meggers, non-polarizing electrodes, and electrical equipment for making measurements in drill holes; instruments and equipment for seismic prospecting; geiger muller counters and other instruments for radioactive methods of geophysical prospecting; electrical and electronic amplifying devices and electrical thermostats designed to be used with any of the foregoing; all the foregoing of a class or kind not made in Canada, and repair parts, tripods and fitted carrying cases for any of the foregoing.....	Free	Free	Free	Free	2,053,356
434c	Trucks of welded design with tubular frame, cast steel cross members, rubber mountings and rubber inserted wheels, of a class or kind not made in Canada, and body shells of welded sheet steel, for use in the construction of street railway cars, not to include electric motors or magnetic truck brakes; complete parts of the foregoing.....	Free	Free	10 p.c.	7½ p.c.	1,197,666

	Free	20 p.c.	20 p.c.	1,707,064
<p>434d Rolled steel wheels in one piece in the rough, not drilled or machined in any manner, for railway vehicles, including locomotives and tenders, when imported for use in the manufacture of steel wheels for use on railway rolling stock.....</p>	Free			
<p>438b Bearings, clutch release; Bearings, graphite; Bearings, steel or bronze backed, with nonferrous metal lining, parts and materials therefor; Bearings, steering knuckle thrust; Bushings, graphited or oil impregnated; Ceramic insulator spark plugs cores not further manufactured than burned and glazed, printed or decorated or not, without fittings; Collars, crankshaft thrust; Compressors and parts thereof, air; Commutator copper segments; Commutator insulating end rings; Tapered discs of hot rolled steel, with or without centre hole, for disc wheels; Diaphragms for fuel and vacuum pumps; Distributor rotors and cam assemblies; Door bumper shoes; Electric wiring terminals, sockets, fittings and connectors and parts and combinations thereof, not to include battery terminals; Gaskets of any material except cork or felt, composite or not, parts and materials therefor; Ignition contact points; Keys for shafting; Auxiliary driving control kits, designed for attachment to motor vehicles to facilitate their operation by physically disabled persons, and parts thereof; Lenses of glass for motor vehicle lamps and for light reflectors; Lock washers; Magnetic plugs; Piston ring castings in the rough, with or without gates and fins removed; Propeller shaft tubes of steel bonded by rubber; Rails of lock seam section, corners, locks and catches, unplated ventilators and parts thereof, the foregoing being of metal other than aluminum, for the manufacture of window sashes for bus bodies; Steel bolts, studs, plugs, rivets or nuts, capped with stainless steel, and parts thereof; Switches, relays, circuit breakers and solenoids and combinations and parts thereof, including starter switch assemblies; Shift control, electric, for two speed rear axles; Vacuum control assemblies and parts thereof; Vulcanized fibre in sheets, rods, strips and tubings;</p>				

* Not separately recorded.

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVOURABLE-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
438b	Parts of all the foregoing; All of the foregoing for use in the manufacture or repair of the goods enumerated in tariff items 424 and 438a, or for use in the manufacture of parts thereof:— 1. When of a class or kind not made in Canada..... 2. When of a class or kind made in Canada.....	Free	Free	Free		\$
438c	Ammeters; Arm rests and wheel housing lining of indurated fibre, pressed to shape; Axle housings, one piece welded, machined or not, including parts welded thereto; Carburetors; Chassis frames and steel shapes for the manufacture thereof; Cigar and cigarette lighters, whether in combination with a cigarette holder or not, including base; Control ventilator gear box; Cylinder lock barrels, with or without sleeves and keys thereof; Dash heat indicators; Engine speed governor units; External ornaments unplated, not including finish or decorative mouldings; Fluid couplings with or without drive plate assemblies; Gasoline gauges; Grilles not plated, polished or not before assembly, and parts thereof not plated or polished, not to include added finish or decorative moulding; Hinges, finished or not, for bodies; Horns; Instrument bezel assemblies, Instrument board lamps, Instrument panel, glove compartment, luggage compartment, hood compartment and door step Lamps and wire assemblies; Locks, electric ignition, steering gear, transmission, or combinations of such locks;	Free Free	25 p.c. 27 p.c. 30 p.c.	Free 17½ p.c.		9,267,167

438c
(cont'd)

Mouldings of metal, with nails set in position, lead filled or not; Pipe lines of tubing, rigid, covered or not, with or without fittings and tubing therefor for oil, fuel, air, or liquid for actuating hydraulic brakes; Purifiers for gasoline, including brackets and fittings therefor; Radiator shutter assemblies, automatic; Radiator water gauges; Radiator shells not plated nor metal finished in any degree; Shackles, bearing spring; Speedometers; Spring covers of metal and closing strips or shapes therefor; Steering wheels, rims and spiders therefor; Sun visor blanks of gypsum weatherboard; Thermostatic controls; Throttle, spark, choke, and hood lock release assemblies, including buttons therefor; Torque converters; Auxiliary transmission overdrive units and controls therefor; Universal joint ball assemblies; Windshield and window wipers; Parts of all the foregoing, including brackets, fittings and connections there- for; Stampings, body, cowl, fender, front end, hood, instrument board, shields and baffles, of metal in the rough, trimmed or not, whether or not welded in any manner before final forming or piercing, but not metal finished in any degree; All of the foregoing when for use in the manufacture or repair of the goods enumerated in tariff items 410a (iii), 424 and 438a, or for use in the manufacture of parts therefor	Free	Free	20 p.c. 25 p.c. 27 p.c. 30 p.c.	17½ p.c.	49, 945, 547	Free	Free	Free	Free
(1) Provided, that if the above articles, when of a class or kind not made in Canada, are for use as original equipment by a manufacturer of passenger automobiles (having a seating capacity of not more than ten persons each) enumerated in tariff item 438a, whose total factory output during the year in which importation is sought, does not exceed ten thousand such complete passenger automobiles, and provided that not less than forty per cent of the factory cost of production of such automobiles, not to include duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be.....	Free	Free							
(2) Provided, that if the above articles, when of a class or kind not made in Canada, are for use as original equipment by a manufacturer of passenger automobiles (having a seating capacity for not more than ten persons each) enumerated in tariff item 438a, whose total factory output, during the year in which importation is sought, exceeds ten thousand, but does not exceed twenty thousand such complete passenger automobiles, and provided that not less than fifty per cent of the factory cost of production of such automobiles, not to include duties and taxes, is in- curred in the British Commonwealth, the rates of duty under this item shall be.....	Free	Free							

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVOURABLE-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
438c (Cont'd)	(3) Provided, that if the above articles, when of a class or kind not made in Canada, are for use as original equipment by a manufacturer of passenger automobiles (having a seating capacity for not more than ten persons each) enumerated in tariff item 438a, whose total factory output, during the year in which importation is sought, exceeds twenty thousand such complete passenger automobiles, and provided that not less than sixty per cent of the factory cost of production of such automobiles, not to include duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be	Free	Free	Free	Free	\$
	(4) Provided, that if the above articles, when of a class or kind not made in Canada, are for use as original equipment by a manufacturer of motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, motor ambulances, and hearses, or chassis for same, as enumerated in tariff items 410a(iii), 438a and 424, whose total factory output of such vehicles during the year in which importation is sought, does not exceed ten thousand such vehicles, and provided not less than forty per cent of the factory cost of production of such vehicles, not to include duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be	Free	Free	Free	Free	
	(5) Provided, that if the above articles, when of a class or kind not made in Canada, are for use as original equipment by a manufacturer of motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, motor ambulances and hearses, or chassis for same, as enumerated in tariff items 410a(iii), 438a and 424, whose total factory output of such vehicles during the year in which importation is sought, exceeds ten thousand units, and provided not less than fifty per cent of the factory cost of production of such vehicles, not to include duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be	Free	Free	Free	Free	
	(6) Provided, that if the above articles are of a class or kind not made in Canada and are for use in the repair of the goods enumerated in tariff items 410a(iii), 424 and 438a, or are for use in the manufacture of repair parts therefor, the rates of duty under this item shall be	Free	Free	Free	Free	
		Free	Free	20 p.c.	Free	

438c
(Cont'd)

438d

(7) Provided, that the Governor in Council may make such regulations, if any, as are deemed necessary for carrying out the provisions of this item.

Front and rear axles;

Brakes;

Brake drums;

Clutches;

Fuel pumps for engines of 260 cubic inches and over in displacement.

Hubs;

Internal combustion engines;

Steering gears;

Magnétos;

Rims for pneumatic tires;

Transmission assemblies;

Hydraulic or fluid couplings;

Drive shafts;

Universal joint;

Steel road wheels;

Power dividers or transfer cases;

Parts of the foregoing;

All of the foregoing when of a class or kind not made in Canada, and when imported only for the manufacture of motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, ambulances, hearses, and the chassis for same.

(1) Provided, that if the above articles are imported for use of original equipment for motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, ambulances, hearses, or of chassis for same, by a manufacturer of the goods enumerated in tariff items 410 (a) (iii), 424 and 438a, and provided also that during the year in which importation is sought, not less than forty per cent of the factory cost of production of such vehicles and chassis therefor, not to include duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be.

(2) Provided, that if the above articles when of a class or kind not made in Canada are for use in the repair of motor trucks, motor buses, fire fighting vehicles, ambulances, hearses and electric trackless trolley buses or of chassis for same or for use in the manufacture of repair parts therefor, the rates of duty under this item shall be.

Free

Free

17½ p.c.

17½ p.c.

8,660,155

Free

Free

7½ p.c.

7½ p.c.

Free

Free

25 p.c.
27 p.c.
30 p.c.

7½ p.c.

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVOURABLE-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
438d (Cont'd.)	(3) Provided, that the Governor in Council may make such regulations if any, as are deemed necessary for carrying out the provisions of this item.					
438e	(1) Parts, n.o.p., electro-plated or not, whether finished or not, for automobiles, motor vehicles, electric trackless trolley buses, fire fighting vehicles, ambulances and hearses, or chassis enumerated in tariff items 438a and 424, including engines, but not to include wireless receiving sets, die castings of zinc, electric storage batteries, parts of wood, tires and tubes or parts of which the component material of chief value is rubber	Free	Free	25 p.c. 27 p.c. 30 p.c.	25 p.c.	59,845,063
	(2) Brake linings, and clutch facings whether or not including metallic wires or threads:- (a) When made from crude asbestos of British Commonwealth origin (b) When made from crude asbestos, n.o.p.	Free	Free	25 p.c. 25 p.c.	25 p.c. 25 p.c.	880,824 (a)
438i	Body bottom cross members and steel shapes for the manufacture thereof; Bumpers, front and rear, and parts thereof, including spring steel bumper plates; Casket tables or platforms for hearses; Destination and route sign assemblies, illuminated or not, and parts thereof; Direction signals, illuminated or not; Door and step mechanism, hand, vacuum or air operated, and parts thereof; Door locks and catches and parts thereof; Electric switches, buzzers, bells, push buttons, fuse assemblies and parts thereof; Forward drive control conversion assemblies and parts thereof; Lamps of all kinds, illuminating and indicating, including sockets, flanges, terminals, glassware, lenses and gaskets therefor, assembled or not, but not to include lamp bulbs, sealed beam units, and electric head lamps; Metal stampings, oiled and primed or not, and assemblies thereof; Rubber fenders; Seat operating mechanisms; Ventilators, including motor driven fan type, and grills, and parts thereof; Window operating mechanisms;	15 p.c.	15 p.c.	25 p.c. 25 p.c.	25 p.c. 25 p.c.	

Ex. 440j	All of the foregoing when imported to be used only in the manufacture or repair of motor truck bodies, motor bus bodies, electric trackless trolley bus bodies, fire fighting vehicles, ambulances and hearses.....	Free	Free	Free	3,634,605
444	Fish hooks, n.o.p.....	Free	Free	15 p.c.	*
Ex. 445g	Gas meters, and complete parts thereof.....	15 p.c.	12½ p.c.	30 p.c.	378,599
446a	Electric motors incorporated in or attached to, or to be incorporated in or attached to, agricultural implements or agricultural machinery; complete parts of the foregoing.....	15 p.c.	Free	22½ p.c.	50,000
451	Manufactures, articles or wares, of iron or steel or of which iron or steel or both are the component materials of chief value, n.o.p.....	10 p.c.	10 p.c.	25 p.c.	37,417,832
453	Buckles, clasps, eyelets, hooks and eyes, dome, snap or other fasteners of iron, steel, brass or other metal, coated or not, n.o.p. (not being jewellery).....	15 p.c.	15 p.c.	25 p.c.	1,000,608
454a	Metal parts when imported by manufacturers of covered buttons for use exclusively in the manufacture of covered buttons, in their own factories, under regulations prescribed by the Minister.....	Free	Free	25 p.c.	291,976
462a	Materials, including all parts, imported for use only in the manufacture of purse frames.....	Free	Free	Free	*
Ex. 462(i)	Photographic cameras and equipment, viz.:-	Free 5 p.c. 7½ p.c.	Free	Free 17½ p.c. 20 p.c.	488,050
Ex. 462(ii) et al	(1) Cameras and parts thereof for making negatives or positives 3½ inches by 4¼ inches or larger, including carrying cases therefor.....				
	(2) Accessories for cameras:-Exposure meters, range finders, lens hoods, lantern slide attachments, camera stands, camera tripods and tripod tops, vignettes, diffusion discs and holders, colour filters and holders, polarizing screens and holders, backgrounds, flash tubes for high-speed flash apparatus, flash guns; parts of the foregoing.....	Free 2½ p.c. 10 p.c.	Free	Free 15 p.c. 25 p.c.	*

* Not separately recorded.

(a) Included under item 438e(2)(a).

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVOURLED-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
	(3) Contact printers, projection printers commonly known as enlargers for negatives or positives 4 inches by 5 inches and larger, temperature controls or heaters for photographic solutions, film and print driers, mounting presses, print washers, negative or sheet-film hangers, ferro-type plates, film and paper processors for strip photo-fishing, print straighteners, photographic timing devices, densitometers, tanks or trays for negative and positive processing; parts of the foregoing.....	Free 2½ p.c. 7½ p.c. 15 p.c.	Free	Free 15 p.c. 20 p.c. 22½ p.c.	Free	\$
470	Patterns of iron, steel, brass or other metal, not being models.....	20 p.c.	20 p.c.	27½ p.c.	22½ p.c.	*
471	Belt pulleys of all kinds, n.o.p., for power transmission.....	15 p.c.	15 p.c.	25 p.c.	22½ p.c.	65, 811
474	Stereotypes, electrotypes and celluloids, for almanacs, calendars, illustrated pamphlets, newspaper or other advertisements, n.o.p.; and matrices or copper shells for such stereotypes, electrotypes and celluloids.....	1 ct.	1 ct.	1½ cts.	1 ct.	383, 792
482 Ex. 445d et al	Ear-telephone sets and similar appliances, including batteries and battery chargers therefor, for use by deaf persons; electronic ear-training apparatus, including microphones, headsets, record-turning devices and tone arms, specially designed for use by, or for the training of, the deaf; parts of the foregoing; under regulations prescribed by the Minister.....	Free	Free	Free 20 p.c.	Free	1, 275, 342
Ex. 497	Rattans, not manufactured.....	Free	Free	Free	Free	(a) 40, 993
498 752 503	Cane, reed or rattan, not further manufactured than split.....	Free	Free	Free	Free	(a)
	Planks, boards, clapboards, laths, plain pickets and other timber or lumber of wood, not further manufactured than sawn or split, whether creosoted, vulcanized, or treated by any other preserving process, or not.....	Free	Free	Free	Free	(b) 6, 843, 503

Ex. 503 Ex. 505	California redwood lumber (<i>Sequoia Semper Virens</i>), not further manu- factured than planed, dressed, or jointed.....	Free 10 p.c.	Free	Free 10 p.c.	Free	*
504a	Ponderosa pine lumber (<i>pinus ponderosa</i>) and California sugar pine lumber (<i>pinus Lambertiana</i>), not further manufactured than planed, dressed, or jointed.....	Free	Free	Free	Free	1,399,599
Ex. 505	Mahogany lumber, including Philippine mahogany lumber, not further manufactured than planed, dressed, or jointed.....	10 p.c.	Free	10 p.c.	Free	30,000
Ex. 506	Matches of wood.....	17½ p.c.	7½ p.c.	20 p.c.	10 p.c.	15,472
506c	Staves and heading of wood, finished or unfinished, for use in the manu- facture of tight barrels or kegs.....	Free	Free	Free	Free	570,587
Ex. 507c	Plywood imported by manufacturers of picker sticks for use in the manu- facture of such articles in their own factories.....	17½ p.c.	10 p.c.	20 p.c.	10 p.c.	10,000
Ex. 507c	Plywood of okoumé.....	17½ p.c.	10 p.c.	20 p.c.	10 p.c.	40,000
Ex. 511	Golf clubs and finished parts thereof.....	20 p.c.	17½ p.c.	30 p.c.	25 p.c.	81,305
Ex. 511	Racquets and racquet frames.....	20 p.c.	20 p.c.	30 p.c.	30 p.c.	189,456
Ex. 511	Golf balls.....	20 p.c.	15 p.c.	30 p.c.	25 p.c.	106,567
Ex. 511	Tennis balls.....	20 p.c.	15 p.c.	30 p.c. ²	25 p.c.	64,838
Ex. 511	Balls of all kinds, n.o.p., for use in sports, games or athletics.....	20 p.c.	20 p.c.	30 p.c.	25 p.c.	129,346
511c	Skis.....	20 p.c.	20 p.c.	22½ p.	20 p.c.	*
511d	Ski fittings.....	15 p.c.	15 p.c.	22½ p.c.	20 p.c.	*
511e	Ski poles.....	20 p.c.	20 p.c.	22½ p.c.	20 p.c.	*
515	Show-cases, of all kinds, and metal parts thereof.....	22½ p.c.	22½ p.c.	30 p.c.	25 p.c.	118,065
519	House, office, cabinet or store furniture of wood, iron, or other material, and parts thereof, not to include forgings, castings, and stampings of metal, in the rough:— (1) Substantially of wood.....	15 p.c.	15 p.c.	27½ p.c.	25 p.c.	1,529,198

(a) Includes Items Ex. 497, 498 and 752.

(b) Includes imports under Item 504.

(c) Includes skis; racquets and racquet frames and baseball bats.

*Not separately recorded.

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVOURLED-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
519	Ex. (1) Rattan furniture.....	15 p.c.	15 p.c.	27½ p.c.	25 p.c.	\$
519a	(1) Wire screens, wire doors and wire windows.....	20 p.c.	20 p.c.	27½ p.c.	25 p.c.	*
	(2) Cash registers.....	20 p.c.	20 p.c.	27½ p.c.	25 p.c.	8,589
	(3) Window cornices and cornice poles of all kinds.....	20 p.c.	20 p.c.	27½ p.c.	25 p.c.	102,444
	(4) Hair, spring and other mattresses.....	20 p.c.	20 p.c.	27½ p.c.	25 p.c.	805
	(5) Curtain stretchers.....	20 p.c.	20 p.c.	27½ p.c.	25 p.c.	9,304
	(6) Furniture springs.....	20 p.c.	15 p.c.	27½ p.c.	15 p.c.	8,927
	(7) Carpet sweepers.....	20 p.c.	20 p.c.	27½ p.c.	25 p.c.	1,864
520	Ex. (1) Raw cotton and cotton linters not further manufactured than ginned.....	Free	Free	Free	Free	4,129
523e	Woven fabrics wholly of cotton with cut pile, n.o.p.....	15 p.c.	15 p.c.	25 p.c.	22½ p.c.	67,036,315
	and, per pound.....			3½ cts.	3½ cts.	641,385
529a	Lace and embroideries, wholly of cotton, not coloured, when imported for use exclusively by manufacturers in the manufacture of clothing, in their own factories.....	7½ p.c.	7½ p.c.	10 p.c.	10 p.c.	1,677,875
Ex. 532	Dollies, made from woven fabrics, composed wholly of cotton.....	25 p.c.	22½ p.c.	25 p.c.	22½ p.c.	*
532b	Woven fabric, wholly of cotton, for covering books.....	15 p.c.	12½ p.c.	27½ p.c.	25 p.c.	88,202
532d	Fabrics wholly of cotton, coated or impregnated, n.o.p.....	22½ p.c.	20 p.c.	27½ p.c.	25 p.c.	960,537
535	Grasses, seaweed, mosses and vegetable fibres other than cotton, not coloured, nor further manufactured than dried, cleaned, cut to size, ground and sifted; oakum of flax, hemp, or jute; coir and coir yarn.....	Free	Free	Free	Free	2,024,157

Ex. 535	Manila fibre, not coloured, nor further manufactured than dried, cleaned, cut to size, ground and sifted.....	Free	Free	Free	*
Ex. 535	Sisal fibre, not coloured, nor further manufactured than dried, cleaned, cut to size, ground and sifted.....	Free	Free	Free	*
535a	Grasses, seaweed, mosses and vegetable fibres other than cotton, n.o.p.; bagasse of sugar cane, whether or not dried, cleaned, cut to size, ground or sifted.....	Free	Free	10 p.c.	38, 168
536	Batts, batting and wadding of wool, cotton or other fibre, n.o.p.....	12½ p.c.	12½ p.c.	20 p.c.	245, 099
Ex. 537 Ex. 537a	Hemp yarns, single or plied, for use in the manufacture of fishing twine or rope, not exceeding one and one-half inches in circumference, or for the construction or repair of fishing nets.....	12½ p.c. 15 p.c.	Free	17½ p.c. 20 p.c.	20, 000
537e	Rovings, yarns and warps wholly of jute, including yarn twist, cords and twines generally used for packaging and other purposes, n.o.p.....	20 p.c.	20 p.c.	25 p.c.	28, 405
542a	Woven or braided fabrics not exceeding twelve inches in width, wholly or in part of vegetable fibres, n.o.p., not to contain silk, synthetic textile fibres or filaments, nor wool.....	22½ p.c.	20 p.c.	25 p.c.	523, 285
Ex. 547	Bags or sacks of jute.....	15 p.c.	12½ p.c.	15 p.c.	862, 001
Ex. 548	Doilies made from woven fabrics, composed wholly or in part of vegetable fibres but not containing wool, n.o.p.....	25 p.c.	22½ p.c.	22½ p.c.	*
Ex. 548	Tablecloths, centre-pieces and doilies of Manila hemp and pineapple fibre.....	22½ p.c. 25 p.c.	20 p.c.	20 p.c.	*
549a	Wool, not further advanced than scoured, not including wool of the sheep of the type commonly known as karakul, when imported by carpet manufacturers for use exclusively in the manufacture of carpets, in their own factories.....	Free	Free	Free	6, 693, 875
549b	(1) Hair of the camel, alpaca, goat or other like animal.....	Free	Free	Free	184, 914
551f	Silver strands in warp form, wholly or in part of wool or hair, imported by manufacturers of braided mats and rugs, for use in the manufacture of such articles in their own factories.....	Free	Free	Free	*
552	Felt, pressed, of all kinds, in the web, not consisting of or in combination with any woven or other fabric or material..... and, per pound	15 p.c. 5 cts.	12½ p.c.	20 p.c. 17½ cts.	119, 746

* Not separately recorded.

SCHEDULE V—CANADA—Continued

PART I—MOST-FAVOURABLE-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
553	Blankets of any material, not to include automobile rugs, steamer rugs, or similar articles:— (3) Blankets, n.o.p..... and, per pound	20 p.c. 5 cts.	20 p.c. 5 cts.	30 p.c. 25 cts.	25 p.c. 20 cts.	6
554d	Woven or braided fabrics not exceeding twelve inches in width, whether with cut pile or not, wholly or in part of wool, the hair of the camel, alpaca, goat or other like animal.....	27½ p.c.	22½ p.c.	35 p.c.	30 p.c.	18,285
557	Silk cocoons; raw silk, not more advanced than singles, not to include material wholly or partially degummed; rags and waste wholly of silk or of synthetic textile fibres or filaments, unfit for use without further manufacture, not to include used garments nor waste portions of unused fabrics.....	Free	Free	Free	Free	*
558b	Rovings, yarns and warps wholly of synthetic textile fibres or filaments, not more advanced than singles, not coloured, with not more than seven turns to the inch, under such regulations as the Minister may prescribe:— (a) Produced from cellulose acetate. Provided that, in no case, shall the duty under the Most-Favoured-Nation Tariff be less than..... per pound (b) N.o.p..... Provided that, in no case, shall the duty under the Most-Favoured-Nation Tariff be less than..... per pound	5 p.c.	5 p.c.	25 p.c. 24 cts.	22½ p.c. 22 cts.	2,124,504
558c	(i) Rovings, yarns and warps, wholly or in part of silk, n.o.p., including threads, cords or twist for sewing, embroidering or other purposes.....	15 p.c.	20 p.c.	25 p.c. 24 cts.	22½ p.c. 22 cts.	2,571,949
			12½ p.c.	22½ p.c.	20 p.c.	24,227

558d	Rovings, yarns and warps wholly or in part of synthetic textile fibres or filaments, n.o.p., including threads, cords or twist for sewing, embroidering or other purposes, not to contain silk; yarns of synthetic fibres or filaments wholly or partially covered with metallic strip, one pound of which shall contain not less than 10,000 yards; under such regulations as the Minister may prescribe.— (a) Produced wholly from cellulose acetate. Provided that, in no case, shall the duty under the Most-Favoured-Nation Tariff be less than..... per pound (b) N.o.p. Provided that, in no case, shall the duty under the Most-Favoured-Nation Tariff be less than..... per pound	7½ p.c.	7½ p.c.	25 p.c.	22½ p.c.	80,800
560a	Woven fabrics wholly or in part of silk, not to contain wool, not including fabrics in chief part by weight of synthetic textile fibres or filaments, n.o.p. and, per lineal yard	25 p.c.	25 p.c.	25 p.c.	22½ p.c.	1,547,702
561	Woven fabrics wholly or in part of synthetic textile fibres or filaments, not to contain wool, not including fabrics in chief part by weight of silk, n.o.p. and, per pound	22½ p.c.	17½ p.c.	30 p.c. 7½ cts.	25 p.c. 5 cts.	863,750
Ex. 567 Ex. 567a et al	Fabrics, coated or impregnated, n.o.p.— (ii) Composed wholly or in part of synthetic textile fibres or filaments, but not containing silk.	30 p.c.	30 p.c.	40 p.c.	35 p.c.	57,652
67	Saris of any material, embroidered with gold or silver thread or with silk.	27½ p.c. 20 p.c. }	20 p.c.	30 p.c. 27½ p.c. }	22½ p.c.	12,794,539
568a	Socks and stockings:— (ii) N.o.p. and, per dozen pairs	20 p.c.	17½ p.c.	20 p.c. 75 cts.	17½ p.c. 75 cts.	579,612
568b	(1) Gloves of kid, n.o.p. and, per dozen pairs	20 p.c.	17½ p.c.	22½ p.c.	20 p.c.	426,486
569	Hats, hoods and shapes of fur felt or of wool-and-fur felt, under such regulations as the Minister may prescribe.	17½ p.c.	17½ p.c.	22½ p.c.	22½ p.c.	437,712
569a	(4) Hats, n.o.p. and, per dozen	22½ p.c. 75 cts.	20 p.c. 75 cts.	27½ p.c. \$1.00	25 p.c. \$1.00	160,971

* Not separately recorded.

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVoured-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1919
		Before Torquay	After Torquay	Before Torquay	After Torquay	
570a	Ex. (1) Carpeting, rugs, stair pads, mats and matting of jute.....	15 p.c.	12½ p.c.	20 p.c.	17½ p.c.	£
	Ex. (1) Carpeting, rugs, mats and matting of Manila hemp fibre.....	15 p.c.	12½ p.c.	20 p.c.	17½ p.c.	*
	Ex. (1) Carpeting, rugs, stair pads, mats and matting of straw.....	15 p.c.	12½ p.c.	20 p.c.	17½ p.c.	*
571a	(1) Mats with cut pile, of cocoa fibre.....per square foot	2½ cts.	2 cts.	3 cts.	2½ cts.	61,712
	(2) Mats, n.o.p., rugs, carpeting and matting of cocoa fibre..per square yard	6½ cts.	6½ cts.	7½ cts.	7 cts.	67,810
572	Oriental and imitation Oriental rugs or carpets and carpeting, carpets and rugs, n.o.p.....	25 p.c.	25 p.c.	25 p.c. 5 cts.	25 p.c. 5 cts.	10,848,242
Ex. 572	Carpets of Manila hemp and cocoa fibre.....	25 p.c.	17½ p.c.	25 p.c. 5 cts. sq. ft.	20 p.c.	*
586	Coal, anthracite, n.o.p.....	Free	Free	Free	Free	(a) 47,148,929
587	Coke, n.o.p.....	Free	Free	Free	Free	6,185,941
588c	Bituminous coal which enters into the cost of manufacture of synthetic rubber, when imported for use exclusively in the production of synthetic rubber.....					
588d	Coal, including screenings and coal dust of all kinds, imported to be converted into coke.....	Free	Free	Free	Free	1,921,575
597a	(1) Musical instruments of all kinds, n.o.p.....	Free	Free	Free	Free	*
597a	Ex. (1) Mouth organs.....	15 p.c.	15 p.c.	17½ p.c.	17½ p.c.	1,079,356
	Ex. (2) Gramophone needles.....	15 p.c.	7½ p.c.	17½ p.c.	10 p.c.	*
601	Fur skins of all kinds, not dressed in any manner.....	15 p.c.	10 p.c.	20 p.c.	15 p.c.	*
		Free	Free	Free	Free	16,294,489

	Free	Free	Free	10 p.c.	10 p.c.	10 p.c.	
608a 608b	Free	Free	Free	10 p.c.	10 p.c.	10 p.c.	816, 555
609	10 p.c.	7½ p.c.	7½ p.c.	22½ p.c.	22½ p.c.	20 p.c.	108, 637
611a	20 p.c.	15 p.c.	15 p.c.	27½ p.c.	27½ p.c.	20 p.c.	*
611a	20 p.c.	17½ p.c.	17½ p.c.	27½ p.c.	27½ p.c.	25 p.c.	*
612a	17½ p.c.	15 p.c.	15 p.c.	25 p.c.	25 p.c.	20 p.c.	*
613	10 p.c.	10 p.c.	10 p.c.	27½ p.c.	27½ p.c.	25 p.c.	10, 000
615	17½ p.c.	17 p.c.	17 p.c.	22½ p.c.	22½ p.c.	22½ p.c.	798, 449
616	20 p.c.	17½ p.c.	17½ p.c.	27½ p.c.	27½ p.c.	22½ p.c.	8, 203
	Free	Free	Free	5 p.c.	5 p.c.	5 p.c.	13, 488, 672
	Free	Free	Free	Free	Free	Free	71, 292
618a	Free	Free	Free	Free	Free	Free	20, 683
618b	22½ p.c.	20 p.c.	20 p.c.	25½ p.c.	25½ p.c.	22½ p.c.	1, 113, 137
619	20 p.c.	17½ p.c.	17½ p.c.	22½ p.c.	22½ p.c.	20 p.c.	1, 292, 553
622	12½ p.c.	12½ p.c.	12½ p.c.	22½ p.c.	22½ p.c.	22½ p.c.	728, 860
623	12½ p.c.	12½ p.c.	12½ p.c.	22½ p.c.	22½ p.c.	22½ p.c.	2, 012, 062
Ex. 623	12½ p.c.	7½ p.c.	7½ p.c.	22½ p.c.	22½ p.c.	17½ p.c.	*
Ex. 624	17½ p.c.	17½ p.c.	17½ p.c.	17½ p.c.	17½ p.c.	17½ p.c.	(b) 204, 295

* Not separately recorded. (a) Includes briquettes of coal or coke. (b) Includes imports of alabaster, spar, amber, terra cotta or composition ornaments.

SCHEDULE V—CANADA—Continued
PART I—MOST-FAVOURABLE-NATION TARIFF—Continued

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
Ex. 624	Statues and statuettes of any material, n.o.p.	17½ p.c.	17½ p.c.	17½ p.c.	17½ p.c.	\$ 164,651
624a	(3) Mechanical toys of metal.	10 p.c.	5 p.c.	30 p.c.	25 p.c.	1,383,473
647	Jewellery of any material, for the adornment of the person, n.o.p.	22½ p.c.	10 p.c.	32½ p.c.	30 p.c.	572,756
648	Precious stones and imitations thereof, not mounted or set; and pearls and imitation thereof, pierced, split, strung or not, but set or mounted.	7½ p.c.	7½ p.c.	10 p.c.	10 p.c.	1,396,914
655a	Lead pencils and crayons, n.o.p.	10 p.c.	10 p.c.	30 p.c.	27½ p.c.	(a) 375,958
655b	Crayons of chalk or chalk-like material, coloured or not.	10 p.c.	10 p.c.	20 p.c.	20 p.c.	*
656	(a) Tobacco pipes of all kinds. (c) Cases for cigar and cigarette holders, cigar and cigarette cases, smokers' sets and cases therefor, and tobacco pipe mounts.	17½ p.c.	15 p.c.	22½ p.c.	20 p.c.	(b) 732,732
657	Mouthpieces in the rough, screws, aluminum pipe fittings, pipe bowls moulded from briarwood dust, bowls of wood not further processed than frayed, corn cobs and corn cob bowls not further processed than shaped, when imported by manufacturers of tobacco pipes for use in the manufacture of such pipes, in their own factories.	17½ p.c.	17½ p.c.	25 p.c.	22½ p.c.	*
658a	Motion picture film, of 16 millimetre width and over, when imported by recognized processors of motion picture film having duly equipped laboratories for processing motion picture film in Canada, for the sole purpose of having reproductions made therefrom, and provided that the original is re-exported within six months from the date of importation, under such regulations as the Minister may prescribe.	Free	Free	Free	Free	33,863
659	Photographic dry plates.	Free	Free	Free	Free	334,425
663	Fertilizers, compounded or manufactured, n.o.p.	15 p.c.	12½ p.c.	25 p.c.	22½ p.c.	91,029
674	Ivory and ivory nuts, piano key ivories and veneers of ivory unmanufactured.	Free	Free	5 p.c.	5 p.c.	2,998,433
		Free	Free	Free	Free	*

Ex. 682	Fish hooks, for deep-sea or lake fishing, not smaller in size than number 2-0, not to include fish hooks used for sportsmen's purposes.....	Free	Free	Free	107,303
691	Communion sets of metal, glass, wood or other material; oil stocks; croziers; benitiers; sprinklers; incense boats; baptismal shells or fonts; missels; scapulars; chapelets; rosaries; religious statues, statuettes, medals and crosses.....	Free	Free	Free	895,705
Ex. 711	Higher fatty alcohols, unsulphated when imported by manufacturers of synthetic detergents for use exclusively in the manufacture of synthetic detergents in their own factories.....	15 p.c.	$\frac{1}{3}$ ct. per gal.	$\frac{1}{3}$ ct. per gal.	360,974
Ex. 711	Dead burned dolomite.....	15 p.c.	15 p.c.	15 p.c.	100,000
Ex. 711	Manufactures of ivory, n.o.p.....	15 p.c.	20 p.c.	20 p.c.	*
Ex. 711	Ivory carvings.....	15 p.c.	20 p.c.	20 p.c.	*
Ex. 711	Lime.....	15 p.c.	20 p.c.	15 p.c.	173,653
Ex. 711	Marble, crushed and ground, including marble dust.....	15 p.c.	Free	Free	*
Ex. 711	Micronized talc, dolomite and mica.....	15 p.c.	Free	5 p.c.	*
Ex. 711	Peanut cake and peanut cake meal.....	15 p.c.	Free	5 p.c.	*
Ex. 711	Synthetic wax.....	15 p.c.	15 p.c.	15 p.c.	20,000
Ex. 711 Ex. 208t et al	Mono-glyceride emulsifiers.....	15 p.c.	Free	20 p.c. 15 p.c.	*
712	Coal tar base or salt, for use in the manufacture of coal tar dyes.....	Free	Free	Free	949,572
723	Metallic elements and tungstic acid when imported by manufacturers for use only in their own factories in the manufacture of metal filaments for electric lamps.....	Free	Free	Free	374,138
729	Sodium hexametaphosphate when imported by tanners for use exclusively in the tanning of leather, in their own factories.....	Free	Free	Free	*
735	Crude glycerine, when imported by manufacturers for use only in their own factories in the manufacture of refined glycerine.....	Free	Free	Free	248,760

* Not separately recorded.

(a) Includes imports under 655b.

(b) Includes imports under 656(c).

SCHEDULE V—CANADA—Concluded
PART I—MOST-FAVOURLED-NATION TARIFF—Concluded

Tariff Item	Description of Products	British Preferential Tariff		Most-Favoured-Nation Tariff		Imports from all countries during 1949
		Before Torquay	After Torquay	Before Torquay	After Torquay	
738	Ground coke, when imported by manufacturers of electric batteries for use only in their own factories of such batteries.....	Free	Free	Free	Free	\$ 11,297
741	Wood handles, when imported by manufacturers of D shovel handles, for use only in the manufacture of such D shovel handles in their own factories.....	10 p.c.	10 p.c.	12½ p.c.	10 p.c.	(a) 255,267
743	Articles of chinaware, when imported to be mounted by manufacturers of silverware in their own factories.....	15 p.c.	12½ p.c.	20 p.c.	17½ p.c.	*
759	Glass plates or discs, rough cut or unwrought, for use in the manufacture of optical instruments, when imported by manufacturers of such optical instruments.....	Free	Free	Free	Free	532,654
771	Battery jars of glass and articles of hard rubber when imported by manufacturers for use only in their own factories in the manufacture of electric storage batteries.....	12½ p.c.	12½ p.c.	20 p.c.	12½ p.c.	465,892
789	Wood shafts for handles of golf clubs not further manufactured than rough turned and wood golf heads not further manufactured than rough turned, when imported by the manufacturers of golf clubs and golf sticks for use only in the manufacture of golf clubs and golf sticks in their own factories.....	5 p.c.	5 p.c.	7½ p.c.	5 p.c.	47,731
800	Complete parts of cash registers, when imported by manufacturers of cash registers for use exclusively in the manufacture of such registers in their own factories.....	15 p.c.	15 p.c.	20 p.c.	15 p.c.	1,186,378
808	Mixtures of methyl alcohol and other ingredients, when imported by tanners for use exclusively as a solvent for dyes for the dyeing of leather in their own factories.....per proof gallon	20 cts.	5 cts.	20 cts.	5 cts.	20,000

*Not separately recorded.

(a) Includes imports under Items 741, Ex. 506 and Ex. 501.

815	Hoop, band or strip, of steel of Bessemer quality, when imported by manufacturers of hinges, for use exclusively in the manufacture of hinges, in their own factories.....per ton	Free	Free	\$4.00	\$4.00	34,346
819	Articles of iron, steel or nickel, or of which iron, steel or nickel are the component materials of chief value, of a class or kind not made in Canada, when imported by manufacturers of electric storage batteries for use exclusively in the manufacture of such storage batteries, in their own factories.....	12½ p.c.	10 p.c.	20 p.c.	10 p.c.	299,661
823 823a	(1) Metal alloy slugs, cast, with diamonds or diamond chips embedded therein, of any size or shape, in condition as from the mould.....	Free	Free	Free	Free	1,913,828
829	(2) Metal alloy strip or tubing, containing not less than 33½ p.c. by weight of nickel and 12 p.c. by weight of chromium, when for use in Canadian manufactures.....	Free	Free	Free	Free	36,283
840	Tungsten carbide, encased in metal tubes, for use in Canadian manufactures. Grog, produced by calcining fire clay, or in the form of calcined dobbies, fire brick, or other refractory shapes, which have been broken, crushed, or ground, screened to size or not, but not further manufactured, when imported for use exclusively by manufacturers of refractory materials in the manufacture of such materials.....per ton	60 cts. 12½ p.c.	60 cts. 12½ p.c.	\$1.00 20 p.c.	\$1.00 20 p.c.	89,460
844	Provided, that in no case shall the duty exceed..... Woven fabrics, open mesh, wholly or in chief part by weight of cotton, imported by manufacturers of bags for use exclusively in the manufacture of fruit and vegetable bags in their own factories.....	Free	Free	Free	Free	(a) 3,251,273
857	Acetylsulphamerazine, acetylsulphadiazine, acetylsulphathiazole and acetyl sulphamethyl thiodiazole imported by manufacturers of sulpha drugs for use exclusively in the manufacture of sulpha drugs in their own factories.....	Free	Free	5 p.c.	Free	300,000
858	Smelter refinery or rolling mill residue or revert (not being scrap metal) imported by Canadian refiners or smelters for recovery of the metal content.....	Free	Free	Free	Free	*
859	Blanks or shapes of uncoloured clear glass when imported for use in the manufacture of silvered, coloured or decorated Christmas tree ornaments.....	Free	Free	5 p.c.	Free	60,000
861	Woven fabrics, wholly or in part of asbestos, when imported by manufacturers of clutch facings and brake linings for use exclusively in the manufacture of such goods in their own factories.....	10 p.c.	10 p.c.	12½ p.c.	12½ p.c.	*

* Not separately recorded.

(a) Includes imports under Item 523m.

W. J. CALLAGHAN, Commissioner of Tariff

May 29, 1951.

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SESSION 1951
HOUSE OF COMMONS

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STANDING COMMITTEE

ON

BANKING AND COMMERCE

CHAIRMAN—MR. HUGHES CLEAVER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

TORQUAY NEGOTIATIONS

WEDNESDAY, JUNE 6, 1951

WITNESSES:

- Mr. H. B. McKinnon, Chairman, Canadian Tariff Board;
Mr. W. J. Callaghan, Commissioner of Tariff, Department of Finance;
Dr. C. M. Isbister, Director, International Trade Relations Branch, Department of Trade and Commerce;
Dr. E. A. Richards, Principal Economist, Department of Agriculture.

MINUTES OF PROCEEDINGS

WEDNESDAY, June 6, 1951.

The Standing Committee on Banking and Commerce met at 4.00 p.m. o'clock. Mr. Cleaver, chairman, presided.

Members present: Adamson, Ashbourne, Balcom, Blackmore, Breithaupt, Cannon, Carroll, Fulford, Fulton, Gingras, Gour (*Russell*), Hellyer, Helme, Laing, Ledue, Sinclair, Smith (*Moose Mountain*), Welbourn.

In attendance: Mr. Hector B. McKinnon, Chairman of Tariff Board; Mr. W. J. Callaghan, Commissioner of Tariff, Department of Finance; Dr. C. M. Isbister, Director, International Trade Relations Branch, Department of Trade and Commerce; Dr. E. A. Richards, Principal Economist, Department of Agriculture; Mr. J. J. Deutsch, Director, International Economic Relations Division, Department of Finance.

On motion of Mr. Breithaupt:

Resolved—That Mr. Cannon be vice-chairman of the Committee.

The Committee resumed its study of the Torquay negotiations.

Dr. Isbister tabled for distribution copies of a document entitled, "Tariff concessions of interest to Canada granted by other countries at Torquay, 1951".

On motion of Mr. Breithaupt:

Ordered—That the document tabled by Dr. Isbister be printed as an appendix to today's proceedings. (See Appendix A)

There being no further general questions on the Torquay negotiations, on motion of Mr. Ashbourne:

Resolved—That the documents embodying the results of the Torquay negotiations be approved. (*For documents see Appendix A to Minutes of Proceedings and Evidence, No. 1, Tuesday, May 29, 1951.*)

It was agreed that the Committee proceed to a detailed study of Mr. Callaghan's statement entitled: "Statement showing the British Preferential and Most-Favoured-Nation Rates of duty in effect prior to and after the Torquay Tariff negotiations and the total imports from all countries during the calendar year 1949 of the products listed in Schedule V to the Torquay Trade Agreement", which appears as *Appendix B to the Minutes of Proceedings and Evidence, No. 2, Wednesday, May 30, 1951.*

The Committee commenced a page by page study of the above document, during the course of which Mr. Callaghan, Mr. McKinnon, Dr. Isbister and Dr. Richards answered questions specifically referred to them.

At 4.10 p.m., the division bells having rung, the proceedings were interrupted and resumed at 4.30 p.m. The vice-chairman, Mr. Cannon, in the chair.

Study of pages 1 to 4 inclusive, and pages 6 to 22 inclusive, was completed. Further study of page 5 was deferred.

At 5.50 p.m. the chairman, Mr. Cleaver, resumed the chair.

At 6.00 o'clock p.m. the committee adjourned to meet at 4.00 p.m. Thursday, June 7, 1951.

R. J. GRATRIX,
Clerk of the Committee

EVIDENCE

HOUSE OF COMMONS,

JUNE 6, 1951.

The Standing Committee on Banking and Commerce met this day at 4 p.m. The Chairman, Mr. Hughes Cleaver, presided.

The CHAIRMAN: Gentlemen, we have a quorum. It was moved by Mr. Breithaupt that Mr. Cannon be vice-chairman of this committee. All those in favour please signify.

Carried.

Mr. Isbister has now handed to the Clerk of the Committee a statement of the "Tariff Concessions of Interest to Canada Granted by Other Countries at the Torquay Conference, 1951". Will someone move that this statement be printed as an appendix to our evidence?

Mr. BREITHAUPT: I so move.

The CHAIRMAN: All in favour please signify.

Carried.

(See Appendix A)

The CHAIRMAN: Gentlemen, in order to have proper continuity in the records of our proceedings I suggest at this time that the committee should move that the documents embodying results of the Torquay negotiations should now be adopted. I believe you have concluded all of the general questions that you wish to ask of Mr. McKinnon and if someone will move now that the document be adopted.

Mr. BREITHAUPT: I so move.

The CHAIRMAN: It is moved by Mr. Breithaupt that the document be adopted.

Mr. W. J. Callaghan, Commissioner of Tariff, Department of Finance, recalled:

Now, in regard to the further work we should do, on looking at these two long tables that have been handed to us by Mr. Callaghan and Mr. Isbister, I would suggest that we take them not an item at a time but a page at a time, the number of individual items is so great. If committee members would go over these two tables at their leisure, if you have any, and mark the items that you are specifically interested in then when we reach, say, page 10 and somebody is interested in alcoholic perfumes then they will ask their questions on alcoholic perfume and so on. Is it satisfactory that we should take it up in that way?

Agreed.

Well, then, we will start with Mr. Callaghan's statement entitled Annex A, Schedule 5, Canada, part one, Most-Favoured Nation Tariff. That page starts with canned pork and ends with preparations of cocoa or chocolate.

Any questions on page 1?

Mr. SMITH: We have not got the right one, Mr. Chairman, at least I do not think we have.

The CHAIRMAN: Gentlemen, have you found the page we are dealing with? Are there any questions on page 1?

Shall page 1 carry?

Carried.

Page 2, from coffee to evaporated milk.

Any questions on page 2?

Upon resuming.

The VICE-CHAIRMAN: Gentlemen, we have a quorum, so I shall call the meeting to order. Page 2 beginning with item 26, "Coffee, roasted or ground" and ending with item 43. Has anybody any questions to ask about page 2?

Mr. BREITHAUP: I notice that the most-favoured nation tariff on coffee is four cents. Does not the major part of the coffee come from outside the British Commonwealth?

The WITNESS: That item of four cents is for roasted or ground. We import very little roasted or ground coffee.

Mr. BREITHAUP: And further down I notice that coffee is imported free under the British preferential tariff. I take it that the amount of ground coffee that we import is very small?

The WITNESS: Almost infinitesimal.

The VICE-CHAIRMAN: Are there any other questions? Shall page 2 carry?

Mr. LAING: Mr. Chairman, will not the effect on chocolate be to reduce the advantage that has been restored to our Canadian chocolate manufacturers by the dropping of the excise tax, because you are giving an advantage of a 5 per cent reduction?

The VICE-CHAIRMAN: There is no item for chocolate on page 2.

Mr. LAING: I am referring to item 23 on page 1, Mr. Chairman.

The VICE-CHAIRMAN: Page 1 was adopted before we adjourned for the vote.

The WITNESS: The advantage given at Torquay will be offset by the increased excise tax.

Mr. LAING: No. We reduced the excise tax from 30 to 15, offsetting against that the restoring of the advantage to a certain extent.

Mr. McKINNON: You will be coming to an item later on in the schedule where we have reduced the duty on cocoa beans. We reduced it from \$1.50 a hundred to \$1 a hundred, which is a definite advantage to the Canadian chocolate industry.

Mr. LAING: Thank you.

The VICE-CHAIRMAN: Shall page 2 carry?

Carried.

Page 3, beginning with item 43 (a) "Dried whey. . ." and ending with item 73 "Field seeds. . ."

Mr. LAING: Item 73 seems a very small amount in view of the amount of seeds which we must import into Canada. I would expect the sum to be much larger than that. I would suppose that the Pacific coast imports would be greater than that amount.

The WITNESS: Orchard grass, blue grass, rye-grass, meadow fescue and red fescue are the kinds of grass covered by this concession.

Mr. LAING: That is right. That seems to be a very small sum of money. I would think it would be much larger than that. We get them from New Zealand principally, do we not? And then, item 72e, Bent grass seed; that is used largely in eastern Canada; it seems to be a very small sum.

The WITNESS: That is an estimated figure because statistics group imports under items 72 and 73 and a dozen other items altogether.

Mr. LAING: That business is a very large one.

The WITNESS: The whole figure may be too low or it may be too high.

Mr. LAING: It is an estimated figure?

The WITNESS: Yes, an estimated figure and it is very hard to separate the statistics. I worked it out at Torquay. This is just an estimate on these particular types of seed. There are dozens of other types as well.

Mr. BREITHAUP: It is not the usual custom to sow bent grass seed. It is usually stolons cut up, that is cut up grass that they spread on the earth and that takes a root. It looks to me like a small quantity. Is stolon cut grass admitted into Canada? Is there a special duty on it?

The WITNESS: Bent grass?

Mr. BREITHAUP: It is an especially suited bent grass seed. There is very little bent grass ever grown from seed. It is grown from stolons. They cut up the grass and spread it on the earth and then it takes root.

The WITNESS: These are the figures which are shown in our statistics under the heading of bent grass seed. The total figure was \$60,000 of which \$45,000 came from New Zealand, and about \$15,000 from the United States.

Mr. LAING: They use it in eastern Canada too.

The VICE-CHAIRMAN: Are there any more questions on page 3? Shall page 3 carry?

Carried.

Page 4, beginning with item 76g "Seeds, Canary, mustard, celery and sunflower. . ." and ending with item 90e "Vegetables, frozen". Shall page 4 carry?

Carried.

Page 5 beginning with item 91 "Soups, soup rolls, tablets, cubes, or other soup preparations, n.o.p." and ending with item 99F "Figs, dried". Shall page 5 carry?

Mr. LAING: Mr. Chairman, I would like to hear a comment on item 93 "Apples, fresh . . .".

The WITNESS: Mr. Chairman, I think Dr. Richards should deal with this question.

Mr. RICHARDS: Mr. Chairman, the Canadian duty on apples up to today was $\frac{3}{4}$ of a cent per pound or $37\frac{1}{2}$ cents a bushel. During the period from May 20 to July 12, apples were admitted into Canada free of duty.

The United States duty on apples is $12\frac{1}{2}$ cents a bushel. That is, during the marketing season, the Canadian duty is three times the American duty.

The United States negotiators pointed out this disparity to us and placed a great deal of importance on a concession from Canada on apples. The United States apple growers have made persistent complaints to the United States government about the competition which they received from Canadian apples.

They asked for an increase in the United States duty, or some control on imports. Their main point of attack has been the wide disparity in the duty between the Canadian and the United States tariffs.

The United States market has now become Canada's best market. In 1950 we exported something like $2\frac{1}{2}$ million bushels of apples to the United States valued at \$5 $\frac{1}{4}$ million.

On the other hand, Canada imported approximately 100,000 bushels of apples from the United States valued at approximately \$300,000.

The United States negotiators were most insistent that we do something to remove that wide disparity in the duty. The Canadian negotiators felt that it would be in the interests of Canadian apple growers and in Canada's interest to reduce the rate. So we cut the rate by 50 per cent which reduced it from $\frac{3}{4}$ of a cent to $\frac{3}{8}$ of a cent per pound and extended the free entry period from July 12 to July 31.

Mr. HELLYER: Could one of the gentlemen present tell us where we buy most of our bananas?

Mr. LAING: Could we stay on the apple business for a while, because I have a question or two?

The VICE-CHAIRMAN: Certainly.

Mr. FULTON: May I be brought up to date?—Is the witness describing only the results of the Torquay conference, or is he giving us a summary of the changes made from and including Geneva?

Mr. RICHARDS: I was describing only the negotiations at Torquay.

Mr. LAING: With respect to the $2\frac{1}{2}$ million bushels which we shipped to the United States, as far as I can work it out, the value comes to about \$2.60 a bushel, the f.o.b. value, which is a very high value.

Mr. RICHARDS: Yes. I thought it would be about \$2; these are approximate figures.

Mr. LAING: What would be the average domestic sale per bushel of Canadian apples valued f.o.b. point?

Mr. RICHARDS: The sales value, domestic and export are quoted on f.o.b. basis Okanagan.

Mr. LAING: Yes. But the domestic f.o.b. basis of sale would be much lower than this figure; I think it is around \$2.60 per bushel on f.o.b. shipping point basis; and domestic sales would be very much lower than that, probably \$1 a bushel less.

Mr. RICHARDS: Some of these apples moved from the 1949 crop in 1950. I think I can get you the exact value of those exports.

Mr. LAING: The export f.o.b. shipping price at that time was much higher than it is in this current season. It was over \$3. It is a very highly preferred market that we ship to in the United States.

Mr. MCKINNON: That is right.

Mr. LAING: All the highest grades of apples.

Mr. RICHARDS: I have it here exactly. Our apples going to the United States in the calendar year 1950 amounted to 2,362,000 bushels. That was the quantity of the apples; and the value was \$5,258,000.

Mr. LAING: The effect of this advantage we have given to the Americans will insure us for the next three years of this entry into the United States. We have bound them to accept Canadian apples on the basis which they have now for at least three years?

Mr. RICHARDS: Yes.

Mr. LAING: It seems a very small advantage to have given for a very large guarantee, because this is manifestly a very highly preferred market.

Mr. MCKINNON: That was our feeling as negotiators, particularly because of the fact that British Columbia appears to have opened up in the last few years a premium market in the United States for a first class product.

Yet every time—as probably you know, coming from British Columbia—that our people went down to negotiate a big bulk sale, they met resistance because the disparity in the duties was so great, and the fact that a pressure group was working very earnestly down there to have import restrictions

imposed. Their argument was that the Canadian duty on apples was so high in comparison with the United States' duty. Yet, as Dr. Richards has said, the trade was almost twenty to one in our favour. We left the Canadian duty at 18 $\frac{3}{4}$ cents a bushel against the American duty of 12 $\frac{1}{2}$ cents a bushel. So, after this concession, our duty is considerably higher than the United States' duty. Nevertheless, the fact that we went as far as we did will probably take the edge off the complaint of the United States' growers, that they were under a very unfair competitive situation.

Mr. LAING: We have satisfied that pressure group pretty cheaply.

Mr. FULTON: That is a matter of opinion.

Mr. McKINNON: If it does not satisfy them cheaply, it does take some of the steam out of their argument that there was a tremendous disparity in the rates of duty.

Mr. LAING: Surely there is a terrific advantage in our having a guaranteed entry for the next three years?

Mr. McKINNON: That is right.

Mr. LAING: The trade is largely in certain markets such as New Orleans, New York, and Chicago, where we have built up a tremendous level which is going to be assured in the future.

Mr. FULTON: Did you, in negotiating, bargain on the basis that the Americans apply an off-shore subsidy, which is in effect a subsidy on the export of apples to a foreign market?

Mr. RICHARDS: Yes.

Mr. FULTON: What use was made of that fact in the negotiations which you describe? Did you reply to them that maybe this off-shore subsidy was contrary to Geneva, therefore our higher tariff position might well be offset against their subsidy? What use did you make of that bargaining position?

Mr. RICHARDS: We pointed out that fact to them, but it was hardly the subject for negotiation.

Mr. FULTON: Why do you say that "it was hardly the subject for negotiation?" What do you mean by that?

Mr. RICHARDS: We were negotiating tariff reductions.

Mr. FULTON: But within the frame work of the Geneva agreement.

Mr. RICHARDS: They may be taken up within it, with the contracting parties where general principles of all the agreements are discussed and complaints are placed before the contracting parties. But in the tariff negotiations group, we were negotiating tariff reductions mainly.

Mr. ISBISTER: May I add a word to that, Mr. Chairman? Under the General Agreement on Tariffs and Trade, if apples are dumped, the country in which they are dumped has grounds for complaint. Canada on the other hand would not be able to complain under the provisions of the General Agreement in Tariffs and Trade merely because United States apples were being dumped in some third country.

We might not like it, but the General Agreement would not provide us with a basis for complaint.

Mr. FULTON: Is it not a fact, Dr. Isbister, that the availability to American apple producers of foreign markets is brought about by payment of this subsidy, thus making those markets—which would not otherwise be profitable—profitable to the American apple producers, and enabling them during this year or 1950 to ship apples into eastern Canada, as they did, at prices much lower than they would have been able to ship them had they not received the advantage of the subsidies? Those subsidies made markets elsewhere, overseas markets,

attractive and profitable to United States apple producers, so that they could afford to take less in the Canadian market because of the fact that their government made up to them what would have been a loss to them in the overseas markets? Is that not what actually happened?

Mr. ISBISTER: I believe it is, as far as my knowledge of the case goes. But the fact remains that if they are dumping in Canada they are breaking the Canadian regulations on this subject but the mere fact that they are selling abroad in this fashion is not a contravention of any trade agreements between Canada and the United States.

There was a further point that arose when this subject was discussed with the United States. They pointed out to us that Canadian apples had been shipped on some occasions free of charge, and in some cases at low cost to the United Kingdom, something which they felt was open to criticism on our side.

Mr. FULTON: The shipment to the United Kingdom of course was not a subsidized shipment in any way at the time it was actually made or later. Surely they did not try to make it appear to be a government subsidized shipment, because it certainly was not.

Mr. ISBISTER: I do not mean to argue their case, but merely to point out that there was no basis in the trade agreement on either side for establishing this as a negotiable subject in the Torquay framework.

Mr. FULTON: I cannot argue as to the fact. If you say that in fact that was the basis under which negotiations were carried on, I must accept it. But I do think you had a bargaining point there in saying: You do apply an off-shore subsidy which has enabled your growers to enter our markets at lower prices than would otherwise have been the case. May I ask you this: Did they simply say: That is not a bargaining point which we can take into consideration in discussing the tariff? Or, did you actually raise the point?

Mr. ISBISTER: This point was used in connection with a number of agricultural products. The only remark to be made about it is that the amount of leverage which it gave to us was rather small for the reasons I mentioned. But we used it to the extent it could be used.

Mr. FULTON: I presume you pointed out to them, when you discussed the tariff as such at Torquay, that we had already given up completely our preferential position in the British market?

Mr. MCKINNON: That is right. We gave that up at Geneva.

Mr. FULTON: What use was made of that point in bargaining?

Mr. RICHARDS: That fact was pointed out to them; but it was water under the bridge, and we were starting from a new base at Torquay.

Mr. FULTON: So at Torquay we were definitely in a weaker bargaining position with respect to Canadian and American rates and tariffs on apples than we would have been if we had not given up the British preferential? Is that correct?

Mr. RICHARDS: I would not like to say that was the case. The United Kingdom granted us a preference on apples. They consulted us and we agreed to relinquish it. But they felt that they gave it up for a mutually advantageous agreement between themselves and the United States.

Mr. FULTON: My recollection of the evidence given by Mr. McKinnon at the earlier inquiry into Geneva before this committee, was that we raised no objection at all when the British approached us on the abandonment by them, or the reduction by them of the preference on our apples. Is that not true?

Mr. MCKINNON: That is in accord with the general position that the delegates took at both Geneva and Torquay. I think I said here the other day

in connection with the Torquay negotiations, that our position was that we would not refuse to accommodate any part of the commonwealth if it wished to bargain away a preference, seeing that we ourselves, as regards the United Kingdom, have the right to give up a margin of preference or to impair a margin of preference, after consultation.

Mr. FULTON: That was your statement, as I recollect it, on the earlier inquiry into Geneva. Our position then, is that in two successive conferences, first at Geneva and later at Torquay, one, by action of the United Kingdom, to which we took no objection, and two, by an agreement on our part with the United States, we gave up two concessions to the prejudice of our own apple growers in Canada with respect to the tariff position which they previously enjoyed.

Mr. McKINNON: I would have to agree with the first part of your remarks, that we have given two concessions on apples. Whether or not in the long run it is to the prejudice of the Canadian apple grower is, as was said earlier, a matter of opinion.

Mr. FULTON: During that period—I do not recollect, I am simply asking for information—how many concessions with respect to apples have the Americans given to us?

Mr. McKINNON: Do you mean: What did we get at Geneva?

Mr. RICHARDS: At Geneva the duty was reduced from 15 cents to 12½ cents a bushel.

Mr. FULTON: Including Geneva, they have made only the one reduction in our favour?

Dr. RICHARDS: That is true. They kept the American market open, I might say, to Canadian apples.

Mr. LAING: Might I ask, Dr. Richards, is it not a fact that Americans have a surplus of short storage apples and we have a surplus of long storage apples, and as they were anxious to get their short storage apples out that is why they paid a subsidy.

Dr. RICHARDS: I would say they have a surplus of both types of apples, and they have extended the subsidy quite recently to the end of this month, so they have a surplus of long storage apples.

Mr. LAING: What would be the effect if instead of paying a subsidy for offshore shipments they paid a subsidy for consumption in the United States.

Dr. RICHARDS: I think if you look at the supplies of apples in the North American continent, you will agree it is in our interest to get surpluses cleared out of the North American continent because it makes more room for our apples to be sold on the domestic and nearby markets, and that is what is happening. The United States have cleared the North American market of surplus apples through their export subsidy program. Since 1948 we, it is true, have lost some of our export markets.

Mr. FULTON: Particularly in Brazil where we won the market; and they took it away from us by their export subsidy.

Dr. RICHARDS: Trade figures show we have lost approximately 500,000 bushels. Now, there may be other factors which may come in but that is what the trade figures show. We have gone down by that amount to countries which come under the export subsidy program of the United States, but during that same period we have increased our sales to the United States by 800,000 bushels.

Mr. McKINNON: We have not only held a premium market in the United States but we have actually increased our participation in the United States markets.

Mr. FULTON: Quite, but there are two or three things which arise out of that. While I know that—and here Mr. Laing will agree—all the apples which are exported from British Columbia are premium grade, the fact is when you concentrate on the United States market you surely are looking to a market where the demand for grade and quality are extremely high, which in that sense makes it a difficult market. Is it not the case therefore that if you ship your apples to a market which demands the best quality apples then you are left in the position where you must market your lower grade apples domestically? It seems to me the one offsets the other.

Mr. McKINNON: Although we may be concentrating on a market that you say demands—I would prefer to say, accepts—in large volume our best grade apples, nevertheless I should think that that same market should offer an outlet for apples of Canadian production that are not necessarily of premium quality. After all, $12\frac{1}{2}$ cents a bushel—even if we are considering apples that are not of the very finest quality such as some that come from the Okanagan Valley—is not a barrier they couldn't overleap.

Mr. CARROLL: You apparently, Mr. McKinnon, do not agree with the two members from British Columbia that all export apples from British Columbia are premium quality.

Mr. FULTON: Mr. McKinnon, what you say with regard to $12\frac{1}{2}$ cents tariff would surely apply almost equally to a tariff of 15 cents so that, to come back to my point, for a concession of $2\frac{1}{2}$ cents a bushel—I do not wish to thrash the point too much, but it is not such a large concession based on your last statement—for the comparatively small concession of $2\frac{1}{2}$ cents at Geneva, we have made two quite substantial concessions.

Mr. McKINNON: We certainly have made two substantial concessions, Mr. Fulton; there is no doubt about that, but on the other hand our tariff situation is still such that our rate is higher than the United States rate of $18\frac{3}{4}$ cents.

Mr. GOUR: $18\frac{3}{4}$ cents?

Mr. McKINNON: $18\frac{3}{4}$ cents a bushel is the new Canadian rate after Torquay. The American rate is $12\frac{1}{2}$ cents a bushel.

Mr. GOUR: That means a reduction of $2\frac{1}{2}$ cents to $12\frac{1}{2}$ cents. That is $2\frac{1}{2}$ cents on 15 cents. If we reduce that to a percentage basis you will find it is a sizable percentage of increase in the tariff. If it were $2\frac{1}{2}$ cents reduction on one dollar the percentage would not be as much.

Mr. FULTON: May I follow this up? One further question. Can I take it from the answers which you have given and which Dr. Richards gave that the thought of the negotiators has been to concentrate, put it that way, to accept the abandonment of overseas markets in favour of concentration on American markets in respect to apples. Is that the policy which you are following?

Mr. McKINNON: No, I do not think that would be quite a fair statement, Mr. Fulton. It would be true to the extent that we agreed to give up the preference in the United Kingdom but you will remember that at Geneva and again at Torquay we got fair, and in some cases quite substantial, reductions in the duties on apples in various European countries.

Mr. FULTON: Have you any figures to show what has been the result by way of any increase in exports to those countries?

Mr. McKINNON: Have you, Dr. Richards, figures for any of the countries either at Geneva or Torquay?

Dr. RICHARDS: I have in general. In 1950, Mr. Fulton, we exported apples to twenty-one countries in spite of the United States export subsidy and these included the United Kingdom, South America, Central America, Oceania, Africa, Asia, and North America. There were very few apples sold to Europe in 1950 but we did, at Geneva, negotiate tariff concessions, or at least we obtained tariff concessions on apples from twenty-five countries.

Mr. FULTON: Have you any quantitative figures which would show volume pre-Geneva to any of these countries, and the volume post-Geneva in exports to those countries so that we could assess the benefit of the tariff reduction?

Dr. RICHARDS: I can obtain those figures for you.

Mr. FULTON: I would appreciate it if you would. Could I ask whether you also have figures showing what is the American average quantity available for export per year?

Mr. LAING: It depends on the frost.

Dr. RICHARDS: Last year, the 1949 crop, I think, produced a surplus of possibly 15 million bushels.

Mr. FULTON: Do you recall whether that is exceptional?

Dr. RICHARDS: Yes, that was an exceptionally big crop.

Mr. FULTON: I do not want to ask you to guess—but would you be able to produce an average figure or would it be just a guess?

Dr. RICHARDS: I can do that and I can get figures on all apples shipped to countries under their export subsidy program. From the 1949 crop the United States exported only two million bushels and from the 1950 crop, to date they have exported about two million bushels, so they have not gained a great deal under that program.

Mr. FULTON: When did they bring that program into effect?

Dr. RICHARDS: I would say early in 1949.

Mr. FULTON: After Geneva?

Dr. RICHARDS: Yes. Production has been stepped up in European countries. In the United Kingdom, the 1935-39 average production was about ten million bushels annually; in the last four years it has been twenty million bushels. The production in Denmark, Belgium, Netherlands, Switzerland, during the last four years has been increased by almost sixty per cent over 1935-39.

Mr. FULTON: Dr. Richards, do you know of the visit that was paid by officials of British Columbia Tree Fruits Limited to England recently? Have you had a consultation with them following that?

Dr. RICHARDS: No, I have not, Mr. Fulton.

Mr. FULTON: Then I cannot question you on that, but arising out of that statement you made just before that question, surely I am not to take it that you mean there is not a market for Canadian apples in the United Kingdom provided currency difficulties were overcome?

Dr. RICHARDS: I think our Canadian apples will sell in any market in the world if they can enter on a competitive basis.

Mr. FULTON: My impression is they would like to have our apples if they could overcome currency difficulties.

Dr. RICHARDS: That is quite true. Our Canadian apples topped the market when they were offered for sale in the United Kingdom.

Mr. MCKINNON: I think that was the case this year, and we can testify from personal observations that all through southern England, and in some of the best apple growing counties, we saw the ground literally covered with apples of their own production; and yet, in spite of that fact, Canadian apples brought a premium price in the United Kingdom market to the extent that the British could buy them at all.

Mr. FULTON: The point I would like to establish there is that the preferential position that we used to enjoy in the United Kingdom market would still be a substantial consideration to Canadian apple growers if it were not for their difficulties arising out of currency.

Mr. LAING: Surely we are not going to have our negotiators criticized for failing to make an agreement with a country that has no money to spend. On the other hand, our negotiators should be praised for having made an agreement with the countries having cash to spend.

Mr. FULTON: I am not suggesting that the negotiators are to be criticized for not securing more substantial sales in the British market for Canadian apples just lately. My criticism is that the United Kingdom is a potential market for Canadian apples, and that the abandonment of the preference has a substantial bearing on the availability of that market, leaving aside the question of currency difficulties.

Mr. McKINNON: Well, there is this qualification to that, Mr. Fulton, that the abandonment of preference on our part was at the request of the United Kingdom authorities, to enable them to make an agreement with the United States at Geneva. They wished that we give up the preference; they asked us to do so; and we concurred.

Mr. FULTON: And you raised no objection whatsoever?

Mr. McKINNON: No.

Mr. LAING: You concurred because you considered that our apples did not need that preference?

Mr. McKINNON: I think our apples can compete with any apples in most countries of the world, on even terms.

Mr. FULTON: I think that is so, too, but when you encounter the policies being pursued by the Americans I would like to see us do what we can to give our apples to preferential position in any market where you can do so on a proper basis.

Mr. LAING: Probably the policy being pursued by the Americans today is of assistance to us, because it is clearing the way for our apples to go down there. Apples are being produced in the Okanagan Valley today, as Mr. Fulton and I have been informed, at a loss. They are being sold at an f.o.b. shipping price to the United States for \$2.60, and the domestic price is \$1.52 per bushel. Both of us have been informed of that. What would have been our loss if we had to sell them on the domestic market? It seems imperative to me that that avenue to the U.S. should be kept open.

Mr. FULTON: Of course, I do not know whether the Americans threatened to put their tariffs back up again, but what I take from the evidence is that we have secured a reduction of $2\frac{1}{2}$ cents in their tariff at Geneva for which we then made a concession, and we now give a concession to the Americans with respect to tariffs by reducing our tariff on their apples, so we do not get a *quid pro quo* on this deal, as I see it now. Was there any threat on the part of the Americans—I do not know whether that is the right term to use when you are negotiating—that they were going to put their tariffs back up to 15 cents?

Mr. McKINNON: No, not a threat in that sense, Mr. Fulton, but in the many hours that we spent on the apple situation they kept impressing on us the difficulty they faced in making any concession on apples because of the disparity in the rates; and, indeed, that unless we could do something to redress that disparity they might find it very difficult to justify continuance of the concession. Now, that is not to say that our duty position was not bound. It was bound, for three years. But, if a strong pressure group down there were to establish that the import of Canadian apples at the concession rate was doing a great injury to the United States apple growing industry, it would have been within the power and the right of the United States authorities to withdraw the concession. Had they done so, we in all probability might have withdrawn some concession in return. We would then have been entering upon a trade war based upon apples. I think, though, that by making another concession in our admittedly high rate we have

forestalled any such probability. We have the present situation bound for another three years, which should give assurance of a stabilized market in the United States for Canadian apples. I would like to add, too, that we did continually impress upon the negotiators the adverse effect upon our trade of their subsidy policy and not only in respect of apples; another illustration lies in oranges and orange juice, in respect of which we pointed out to them they were subsidizing the export of this citrus product. But, having in mind our own high rate on apples, we felt we could help to stabilize the position in the United States for the Canadian grower.

Mr. FULTON: Did you attempt, Mr. McKinnon, to negotiate separately on the question of the period during which their apples would be admitted free and the question of a general reduction in our tariff, or did they insist on both those things being considered together?

Mr. McKINNON: No, they were not completely separate at any time, Mr. Fulton. We canvassed among ourselves many different propositions and variations. We finally agreed upon this as being the one that might cost us the least and at the same time retain for us the United States market: namely, a reduction to 18½ cents per bushel in the general rate and an extension of their free-entry period into Canada by two weeks. The former free-entry period was from May 20th to July 12th; we extended that to July 31st.

Mr. FULTON: Did you obtain or did you have any representations from the British Columbia Fruit Growers Association or from the British Columbia Tree Fruits Limited, prior to going to Torquay?

Mr. McKINNON: Yes, the Department of Agriculture had from either one, or both.

Dr. RICHARDS: Yes, we had representations.

Mr. FULTON: Do you recall which one, or was it both?

Dr. RICHARDS: From the British Columbia Tree Fruits Limited, I believe.

Mr. McKINNON: Perhaps I should add to Dr. Richards' reply: to my knowledge, since the Torquay results have been published we have not had one word of criticism or objection from either of the associations you mentioned. I have not heard a word from any of the apple growers or from the Horticultural Council.

Mr. ADAMSON: You did see in the United Kingdom a lot of waste in apples? What would be done with them?

Mr. McKINNON: A lot of them were cider apples.

Mr. ADAMSON: The British government in order to improve the operation of their bulk buying of meat, commandeered apple storage facilities and stored meat in these places. I know one of the fruit growers over there who told me that.

Mr. McKINNON: We certainly saw a lot of fruit going to waste.

Mr. ADAMSON: Frightful waste, owing to the deliberate policy of the British government. I do not mind that being on the record.

Mr. FULTON: Mr. Chairman, just before you leave that page, will it be permitted to come back to this question when Dr. Richards produces the figures that I have asked him for?

The VICE-CHAIRMAN: Yes, when those figures are produced we can come back to this item.

Mr. FULTON: I understand we will be allowed to come back to item 93 if desired after Dr. Richards has produced those figures.

Mr. LAING: If at the same time Dr. Richards is looking up his figures could he go back to the original so-called Chicago agreement by which these apples first entered the United States in 1942 irrespective of government action at that time?

Mr. McKINNON: It was purely a commercial transaction.

Mr. LAING: Yes, a commercial operation. Would Dr. Richards show the exports into the United States since, if these figures could be obtained.

Dr. RICHARDS: Yes, I will obtain that.

The VICE-CHAIRMAN: Did you have a question on bananas, Mr. Hellyer?

Mr. HELLYER: I just wondered where we bought most of our bananas?

The WITNESS: In 1949 we imported almost three million stems valued at about \$17 million. From Honduras we imported 1,170,000 stems valued at \$6,750,000.

Mr. ADAMSON: That is from British Honduras?

The WITNESS: No. From Guatemala we imported about 748,000 stems valued at \$4,260,000; from Panama, 341,000 stems, valued at \$2,267,000; from Costa Rica, 247,000 stems valued at \$1,687,000; and we had smaller imports from Ecuador, Colombia, Mexico, and Haiti.

Mr. HELLYER: Generally speaking, most of the imports were from the most favoured nation countries and not from British preference countries.

Mr. McKINNON: Almost entirely.

By Mr. Hellyer:

Q. Does this 50 cents a stem duty represent a substantial reduction?—A. A substantial reduction. Honduras is a general tariff country, and the general tariff rate of \$1 per stem or bunch still applies.

Q. From Honduras?—A. Yes. This is a complicated matter which will have to be straightened out in the next budget because most favoured nation countries are paying duties of fifty cents per one hundred pounds while general tariff countries are paying a duty of \$1 per stem or bunch.

Mr. McKINNON: The explanation being that Honduras is not in the General Agreement and does not get most-favoured-nation treatment.

The WITNESS: The weight of a stem or bunch runs from thirty-five to sixty-five pounds. It varies with different countries. The reduction is fairly substantial although on paper it does not appear to be much. A reduction from fifty cents per stem or bunch to fifty cents per hundred pounds is fairly substantial.

Mr. LAING: Most people are concerned about this item because bananas are selling at eighteen cents a pound whereas formerly they were two pounds for fifteen cents.

Mr. McKINNON: That is right. That arises partly from the situation that Honduras, which is by far the biggest supplier is not a favoured nation and does not get advantage of this concession.

Mr. ADAMSON: Do we then buy a lot from Guatemala?

Mr. McKINNON: Yes.

The VICE-CHAIRMAN: Shall page 5 carry?

Carried, except item No. 93 which will stand.

Mr. CARROLL: I do not quite understand, Mr. Chairman, what this committee means by carrying these items. What have we got to do with carrying it?

The VICE-CHAIRMAN: We have to approve the changes that are made.

Mr. CARROLL: It does not make any difference whether we approve them or not here. They are now a negotiated treaty. Approving them might give rise to complications.

The VICE-CHAIRMAN: The items were referred to the committee by the House. If anybody has any questions to ask he asks them, and we use the word carried because we usually use it in committee. Have you another expression to suggest, Mr. Carroll?

Mr. LAING: It was said this is an educational committee. We should say we understand the item.

Mr. CARROLL: It might give rise when some time in the future Mr. McKinnon goes down for further negotiations with these countries that he will be met with the statement you people did not consider this a treaty at all, you had it before a committee, you had it before parliament, and you carried the things we had agreed on, taking the position that you had the right to carry it.

The VICE-CHAIRMAN: After we examine it page by page we will adopt the whole report.

Mr. CARROLL: I do not want to be critical of this.

Mr. ADAMSON: We might use the word approved, or accepted.

The VICE-CHAIRMAN: Is page 5 accepted then?

Accepted.

Mr. HELLYER: One thing I would like to mention here, Mr. Chairman, in passing. It seems the British Columbia people are making tremendous inroads in the Ontario apple sauce market.

Mr. SINCLAIR: Good apples, good salesmanship.

The VICE-CHAIRMAN: We are on page 6, items 101 (a), lemons, to 105 (e), cherries and other fruits.

Mr. ADAMSON: The only large item here is lemons. Presumably that is an American product or where does the bulk come from. It is all free.

Mr. MCKINNON: It is simply a binding of the free entry; it was actually negotiated with the Dominican Republic.

The VICE-CHAIRMAN: Shall page 6 be accepted?

Accepted.

Mr. ADAMSON: Where do the lemons come from?

The WITNESS: Mainly from Italy. 1,420,000 came from Italy in 1949; 764,000 from the United States during that same year 1949.

Mr. ADAMSON: Almost entirely from those two countries?

The WITNESS: Yes.

The VICE-CHAIRMAN: Shall page 6 be accepted?

Accepted.

Page 7, beginning with item 109, walnuts and ending with item 136 (a) molasses.

Mr. GOUR: I see here you have a one cent duty on molasses.

The VICE-CHAIRMAN: What did you say, Mr. Gour?

By Mr. Gour:

Q. I say there is a one cent duty shown here on molasses.—A. Molasses covered by this item is commonly known as blackstrap molasses.

Q. Blackstrap molasses is used for livestock feed used mainly on the farm. I do not see why there should be a one cent duty on that, taxing the farmer to that extent.—A. At Annecy we reduced the most favoured nation rate from 1½ cents to 1 cent.

Q. You could have reduced it to zero. It is also a food used in poor families. I know a lot of you people like to eat maple syrup.

Mr. FULTON: I know quite a lot of wealthy people who are using blackstrap molasses as a health tonic.

Mr. GOUR: Maybe in your constituencies but not our people, we use blackstrap molasses as a food.

The WITNESS: The reduction made at Annecy was bound to the Dominican Republic at Torquay. It is just a binding of the existing rate of one cent.

The VICE-CHAIRMAN: Is page 7 accepted by the committee?

Accepted.

Page 8, item 141, sugar candy to item 142, tobacco. Any questions?

Mr. LAING: Is that the entire tobacco import in Canada?

Mr. SINCLAIR: Cut tobacco is listed on the next page.

Mr. FULTON: Does item 141 include the sweet biscuits, like Peak Frean biscuits, those special biscuits?

The WITNESS: No, they come under item No. 66 or 66a, the items covering sweetened biscuits.

Mr. LAING: I would like to point out that the total tobacco import is very, very small. We must produce a large percentage of our tobacco today.

The WITNESS: Practically all.

Dr. RICHARDS: We are on an exporting basis; we produce more than we consume:

Mr. LAING: I understand for blending purposes we bring in a modest quantity.

Mr. MCKINNON: That is right, Mr. Laing, imports of tobacco are very small.

The VICE-CHAIRMAN: Is page 8 accepted by the committee?

Accepted.

Page 9, beginning with item 144, cut tobacco, and finishing with item 159 (a) spirits and strong waters of any kind.

By Mr. Adamson:

Q. I have one question to ask about grapefruit juice. Why does not this come under the general item of citrus fruits? That is a fairly large item, item 152?—A. Item 152 reads: "fruit juices and fruit syrups n.o.p. viz. (a) lime juice; (b) orange juice; (c) lemon juice; (d) passion fruit juice; (e) pineapple juice; (f) grapefruit juice; (g) blended orange and grapefruit juices; (h) fruit juices n.o.p.; (i) fruit syrups n.o.p."

Q. The only one that an agreement was made on was grapefruit juice?—A. Yes.

Q. I thought orange juice came in free.

Mr. MCKINNON: No, ten per cent.

The WITNESS: Orange juice is free under the British preferential tariff. The rate of ten per cent applies to imports of all fruit juices from most-favoured-nations countries at the present time.

The VICE-CHAIRMAN: Is page 9 accepted by the committee?

Mr. FULTON: Item 159 (a).

The VICE-CHAIRMAN: Have you any questions on it?

Mr. FULTON: I take it from the volume of imports there, Mr. Chairman, that it does not include Scotch.

The WITNESS: No, it does not include Scotch whisky.

The VICE-CHAIRMAN: Is page 9 accepted?

Accepted.

Now, we are on page 10, item 160, alcoholic perfumes to item 161, perfumed spirits. Any questions on that?

Mr. FULTON: I have a question on item 161. These rates, Mr. McKinnon, would they be mainly for revenue purposes or are they for protection purposes? We do not have much of a perfume industry in Canada, do we?

Mr. McKINNON: They are to some extent protective, but they are chiefly for revenue—and, indeed, sumptuary, because of the nature of the product. You will notice that the duties prior to Torquay were very very high on some of these products, 45 per cent, and in another case \$3 a gallon plus 30 per cent. They are quite high duties and apply to commodities which normally would pay a high rate of duty, on sumptuary grounds.

Mr. FULTON: Would the concessions made benefit France or the United States?

Mr. McKINNON: France. They were given to France. I think every item on this page was negotiated with France. They represent those essentially French products upon which France desired concessions.

Mr. ADAMSON: I imagine the tourists would be interested in this sort of product. Does this mean that perfumes may be bought more cheaply in Canada than in the United States?

The WITNESS: The reduction is substantial. It might be possible.

Mr. McKINNON: On the other hand the United States has been making quite substantial reductions for the same type of product.

Mr. SINCLAIR: They still have a twenty per cent retail tax on that sort of thing in the United States?

Mr. McKINNON: Yes?

Mr. FULTON: There is not much production of this type of product in the United States.

Mr. McKINNON: In any event, the United States has been prepared to give concessions to France on this type of thing. In making our agreement with France, Mr. Callaghan found it not very easy to find products which were essentially French in nature but this particular includes page four or five items that France was especially interested in.

The VICE-CHAIRMAN: Is page 10 accepted?

Accepted.

Page 11, items 165, champagne, to item 168a, malt syrup.

Mr. ADAMSON: How much is this likely to reduce the price of a bottle of champagne? Not very much I suppose?

The WITNESS: It is equivalent to a dollar per dozen bottles containing each not more than a quart but more than a pint.

By Mr. Fulton:

Q. This sort of general rate or subsidiary rate that you have at the bottom, "and in addition thereto, under all tariffs, \$1.75 per gallon." Is that a sort of a surtax duty?—A. No, it is not in reality. It should not be in the trade agreement. The history of these additional duties on cigars, tobaccos, cigarettes, wines, goes back to September 1939. When the war broke out parliament

enacted what we call additional duties on these products for revenue purposes. They are under a separate section in a separate Act. These duties were increased substantially in 1940 and 1941, but this one has never been reduced. At one time these additional duties applied on tea, tobacco, and coffee.

Q. Tobacco?—A. They were taken off tea and coffee during the war years. They were put on mainly for purpose of obtaining additional revenue and they are still on.

Q. And they were not the subject of negotiations at all?—A. No, they were not the subject of negotiations. We thought in 1947 that they would never go any higher. Last year the additional duty on liquor was increased from \$7 to \$8.

Q. It did not just happen, it was put there!—A. It is possible that when we consolidate the Torquay, Annecy and Geneva trade agreements these additional duties will be left out altogether. There may be some objections raised if they are left out. We never bound these duties and we put them in the schedule for information only.

By Mr. Adamson:

Q. You would like to have these taken out?—A. We would not like to have them bound against increase in a trade agreement.

Q. It was originally put on as an excise tax?—A. Yes, but it was put on under the Customs Tariff Act.

The VICE-CHAIRMAN: Is page 11 accepted?

Accepted.

Page 12, beginning with item 172a, tourist literature, to item 178, advertising and printed matter.

Is this page accepted?

Accepted.

Page 13, item 178 continued.

Is this page accepted?

Accepted.

Page 14, items 188a, Decalcomania paper, to 401 (g), tape or wire.

By Mr. Adamson:

Q. Apparently there has been a big reduction in coated papers. Does the Canadian industry consider itself secure to have a complete reduction of 22½ per cent to free, and from 32½ per cent to free on coated papers being brought into Canada?—A. On items 197a and 198a we reduced the tariff from the prevailing rates to free, but overriding those two items we have drawback item 1,060 which provided for a drawback of 75 per cent of the duty on paper of all kinds when used by a publisher or printer in Canada in the production of periodical publications enjoying second class mailing privileges, the pages of which are regularly bound, wire stitched or otherwise fastened together. Due to this drawback item the actual rate of duty was only 25 per cent of that shown in the tariff. The publishers of magazines and books have repeatedly requested some relief for the reason that their publications enter Canada duty free. The United States were after some concessions on paper and we figured out that these were the cheapest concessions we could give them.

Q. That is on high grade coated paper?—A. Yes.

By Mr. Laing:

Q. Going back to item 192e, I see this gasket stock is free. We have built up a gasket plant in Canada now to supply our own needs?—A. These are mostly for gaskets which are made in Canada, but this item has been in the tariff for some time duty free by order of council. This is the paper for making gaskets.

Q. Do we not make them all here now in Canada?—A. Practically all. There may be a gasket for a peculiar type of motor such as an Essex 1920 that has to be imported. Anybody wanting that gasket would have to import it.

The VICE-CHAIRMAN: Is page 14 accepted?

Accepted.

Page 15, items 199, matches of paper, to item 206a, sera and antisera.

Mr. HELLYER: Mr. Chairman, this is supposed to be an educational committee. I wonder if members know that ginseng was perhaps the first export from this area to the Orient some three or four hundred years ago?

The VICE-CHAIRMAN: Is page 15 accepted?

Accepted.

Page 16, items 208, iodine, to 216, chromium trioxide.

Mr. HELLYER: If anybody has stomach ulcers either before or after this committee it will also cure them.

VICE-CHAIRMAN: Is page 16 accepted? Any questions?

Accepted.

Page 17, items 219a, non-alcoholic preparations to item 219g, yeast, dead or inactive.

Is page 17 accepted?

Accepted.

Page 18, item 220, all medicinal and pharmaceutical preparations.

Mr. ADAMSON: Who was interested in these medical preparations being imported into Canada, European countries?—A. The United States requested a substantial reduction on these large items. They had their eye on them because the trade is \$6 million. They wanted the British preferential rate. The only reduction we made on this item was in connection with products having more than 2½ per cent alcoholic content which carried a rate of 60 per cent without any preference. We reduced this rate to 25 per cent.

Q. It still gives fairly sufficient protection to our own industry?—A. Yes; one of the chief products that had to pay 60 per cent, because it had more than 2½ per cent alcohol in it, is embalming fluid.

Q. What is that, formaldehyde?—A. I do not know what is in it but I know it contains a considerable quantity of alcohol.

The VICE-CHAIRMAN: Is page 18 accepted?

Mr. FULTON: What is the reason for exempting from the negotiations those items mentioned at the bottom of the page, or are they exempt from this tariff item? Is that your meaning or were they exempted from the negotiations?

The WITNESS: They have been there for thirty or forty years; that is the way that tariff item is worded.

The VICE-CHAIRMAN: It has always been worded that way?

The WITNESS: It has always been worded that way.

The VICE-CHAIRMAN: Is page 18 accepted?

Accepted.

Page 19, item 220, sulfamethylthiadiazole, to item 234, perfumery.

Mr. ADAMSON: Would you give us an explanation on this \$21 million item?

The WITNESS: Yes. This would be the large one as far as statistics show, but you cannot separate them.

The VICE-CHAIRMAN: Is page 19 accepted?

Accepted.

Page 20, from item 245, others, to item 280a inedible oils.
Accepted.

Page 21, from item 284b, gypsum tile, to item 325, stained or ornamental glass windows.

Any questions on page 21?

Is page 21 accepted by the committee?

Accepted.

Page 22, from item 326, demijohns or carboys, to item 348f, copper covered steel wire.

By Mr. Fulton:

Q. On item 326, who would be the main beneficiary of the reduction there, the United States?—A. It is the United States. It is one of the items they pressed for until the last day—for a reduction on this one.

Q. I did not quite hear you? Did you say they pressed for it on the last day or until the last day?—A. Until the last day they pressed for a reduction on this item—mainly on account of the amount of trade involved.

Mr. BLACKMORE: Which item?

The WITNESS: 326(1). The total trade in that item is shown here as \$3,400,000, of which the United States supplied \$3,277,000.

The VICE-CHAIRMAN: Is page 22 accepted by the committee?

Carried.

Would you like to take over again, Mr. Chairman?

Mr. Cleaver resumed the chair.

Mr. BLACKMORE: Would it be in order to ask why we are not taking any more of that market ourselves?

Mr. McKINNON: There is a very large production in Canada of bottles of the type that come in under this item. There are two very big plants in particular, with the most modern equipment, highly automatic machinery, and very big production.

Mr. BLACKMORE: Yet the United States wants to sell in the market against us?

Mr. McKINNON: Yes, they are selling, to the extent of \$3½ million over a duty of 22½ per cent.

The CHAIRMAN: Now, we are nearing the hour of adjournment and looking over the list of committees which are going to sit tomorrow I do not think it would be wise for us to attempt to meet in the morning. Would it suit members of the committee if we met tomorrow afternoon at 4 o'clock?

Mr. FULTON: Is there any chance of being able to get the report of today's proceedings printed by that time?

The CHAIRMAN: No, we are running about a week late.

Mr. FULTON: Well, Dr. Richards undertook to produce some figures, but I do not suppose there is any chance of completing our work tomorrow anyway.

The CHAIRMAN: No, so we will meet again at 4 o'clock tomorrow.

APPENDIX "A"

TARIFF CONCESSIONS OF INTEREST TO CANADA GRANTED BY
OTHER COUNTRIES AT TORQUAY, 1951INTERNATIONAL TRADE RELATIONS DIVISION
DEPARTMENT OF TRADE AND COMMERCE

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IMPORTS INTO THE UNITED STATES OF PRINCIPAL ITEMS OF INTEREST TO CANADA
RESPECTING WHICH CONCESSIONS WERE OBTAINED UNDER THE GENERAL
AGREEMENT ON TARIFFS AND TRADE, TORQUAY, 1950-1951

U.S. Tariff Para.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	U.S. Imports From Canada 1949
	CHEMICALS, OILS AND PAINTS			\$
1	Acetic or pyroligneous acid containing by weight; more than 65% acetic acid.....	$\frac{3}{4}$ ¢ lb.	$\frac{5}{8}$ ¢ lb.	591,322
1	Chloroacetic acid.....	$2\frac{1}{2}$ ¢ lb.	$1\frac{1}{4}$ ¢ lb.	8,542
1	Citric acid.....	17¢ lb.	$8\frac{1}{2}$ ¢ lb.	—
1	Phosphoric acid.....	2¢ lb.	1¢ lb.	2
1	Naphthenic acid.....	25%	$6\frac{1}{4}$ %	2,776
1	Acids and acid anhydrides, N.S.P.F.....	25%	$12\frac{1}{2}$ %	110
2	Acetylene derivatives:			
	Acetaldehyde.....	6¢ lb. plus 30%	3¢ lb. plus 15%	—
	Aldol or acetaldol.....	6¢ lb. plus 30%	3¢ lb. plus 15%	—
	Butyraldehyde and crotonaldehyde.....	6¢ lb. plus 30%	3¢ lb. plus 15%	—
	Paracetaldehyde or paraldehyde.....	6¢ lb. plus 30%	3¢ lb. plus 15%	—
	Homologues, polymers, ethers, esters, salts and mixtures of one or more acetylene deriva- tives, n.s.p.f.....	6¢ lb. plus 30%	3¢ lb. plus 15%	—
2	Butylene, ethylene, and propylene derivatives:			
	Butylene, chlorohydrin, dichloride, glycol and oxide.....	6¢ lb. plus 30%	3¢ lb. plus 15%	—
	Ethylene, chlorohydrin, diamine, dichloride, glycol and oxide.....	6¢ lb. plus 30%	3¢ lb. plus 15%	58
	Glycol monacetate.....	6¢ lb. plus 30%	3¢ lb. plus 15%	—
	Propylene chlorohydrin, dichloride, glycol and oxide.....	6¢ lb. plus 30%	3¢ lb. plus 15%	—
	Ethanolamine, mono-, di-, tri-, and all other hydroxy alkyl amines and alkylene diamines	6¢ lb. plus 30%	3¢ lb. plus 15%	—
	Allyl, crotonyl, vinyl, and other olefin or un- saturated alcohols.....	6¢ lb. plus 30%	3¢ lb. plus 15%	—
	All other glycols, or dihydric alcohols, n.e.s..	6¢ lb. plus 30%	3ilb. plus 15%	—
	Homologues, polymers, ethers, esters, salts, and nitrogenous compounds and mixtures of one or more butylene, ethylene or propylene deri- vatives, n.s.p.f.....	6¢ lb. plus 30%	3¢ lb. plus 15%	150,198
3	Acetone, ethyl methyl ketone, and their homo- logues, and acetone oil.....	20%	10%	—

IMPORTS INTO THE UNITED STATES OF PRINCIPAL ITEMS OF INTEREST TO CANADA
RESPECTING WHICH CONCESSIONS WERE OBTAINED UNDER THE GENERAL
AGREEMENT ON TARIFFS AND TRADE, TORQUAY, 1950-1951—Continued

U.S. Tariff Para.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	U.S. Imports From Canada 1949
				\$
5	Salts derived from vegetable oils, animal oils, fish oils, animal fats and greases, n.e.s. or from fatty acids thereof.....	25%	12½%	—
5	Fatty alcohols and fatty acids sulphates, n.e.s. and salts or fatty acids sulphated n.e.s.....	12½%	12½%	—
5	Nicotine and nicotine sulfate.....	25%	12½%	—
5	All alkaloids, salts, and derivatives, n.e.s.....	25%	12½%	25
5	Derivatives of barbituric acid, n.e.s.....	25%	12½%	—
5	Ergot derivatives.....	25%	12½%	—
5	Medicinal preparations of vegetable origin.....	25%	12½%	1,058
5	Medicinal preparations, n.s.p.f. not containing alcohol (except of animal, vegetable, or coal-tar origin and except haarlem oil and vitamins)...	25%	12½%	45,386
5	Salts and compounds of gluconic acid and com- binations and mixtures of any of the foregoing; ergotamine tartrate, n.s.p.f.....	15%	12½%	—
5	Ammonium compounds, n.e.s.....	25%	12½%	—
5	Barium sulfide.....	25%	12½%	—
5	Sodium compounds: alginate.....	20%	12½%	—
	Other n.s.p.f.....	25%	12½%	20,163
5	Laundry sour containing not less than 20% of sodium silicofluoride and not less than 10% of oxalic acid n.s.p.f.	15%	12½%	—
5	Beryllium: oxide or carbonate.....	12½%	12½%	—
5	Other chemical elements, compounds, mixtures, salts, n.s.p.f., not containing alcohol (except textile assistants).....	25%	12½%	2,034,927
5	Medicinal preparations of animal origin.....	12½%	12½%	57,821
7	Ammonium phosphate (not fertilizer).....	1½¢ lb.	¾¢ lb.	—
10	Fir of Canada.....	5%	2½%	18,076
21	Chemical compounds, mixtures, and salts, of which gold, platinum, rhodium, or silver are chief value.....	25%	12½%	139
23	Preparations in capsules, pills, tablets, lozenges, troches, ampoules, jubes, or similar forms, including powders, non-coal-tar.....	12½% or 25%	12½%	152,102
24	Extracts for dyeing, coloring, or staining alcohol: 20% or less.....	20¢ lb. plus 25%	20¢ lb. plus 12½%	—
	over 20% and not over 50%.....	40¢ lb. plus 25%	40¢ lb. plus 12½%	—
	over 50%.....	80¢ lb. plus 25%	80¢ lb. plus 12½%	—
24	Brewers' yeast, containing 20 per cent or less alcohol.....	20¢ lb. plus 25%	20¢ lb. plus 12½%	900

IMPORTS INTO THE UNITED STATES OF PRINCIPAL ITEMS OF INTEREST TO CANADA
RESPECTING WHICH CONCESSIONS WERE OBTAINED UNDER THE GENERAL
AGREEMENT ON TARIFFS AND TRADE, TORQUAY, 1950-1951—*Continued*

U.S. Tariff Para.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	U.S. Imports From Canada 1949
				\$
26	Chloral hydrate.....	20%	17½%	—
27(a)	Coal-tar intermediates, n.e.s.....	7¢ lb. plus 45%	3½¢ lb. plus 22½%	10,986
28(a)	Coal-tar products, not specially provided for, suitable for medical use.....	7¢ lb. plus 45%	3½¢ lb. plus 25%	—
28(a)	Styrene.....	7¢ lb. plus 45%	3½¢ lb. plus 22½%	1,073
28(a)	Synthetic phenolic resin and all resinlike products prepared from any article provided for in paras. 27 and 1651.....	7¢ lb. plus 45%	3½¢ lb. plus 22½%	26,826
28(a)	Vanillin.....	7¢ lb. plus 45%	3½¢ lb. plus 22½%	—
29	Cobalt oxide.....	10¢ lb.	5¢ lb.	159
31(a)	Cellulose acetate, and compounds, combinations, or mixtures, except of acrylic resins, not made into finished or partly finished articles:			
	Sheets, powder, flakes or waste, and blocks, rods, tubes, briquets, or other forms, n.e.s.	25¢ lb.	12½¢ lb.	—
31(b)	(1) All compounds of cellulose (except cellulose acetate, but including pyroxylin and other cellulose esters and ethers), and all compounds, combinations, or mixtures: Transparent sheets over 0.003 but not over 0.032 inches thick.....	25¢ lb.	22½¢ lb.	—
	In blocks, sheets, rods, tubes, powder, flakes, briquets, or other forms, whether or not colloided, not made into finished or partly finished articles.....	30¢ lb.	20¢ lb.	—
31(b)	(2) Smokeless powder.....	60%	30%	—
34	Fish oils, n.e.s. (except shark, dog-fish, fish liver, cod, herring and whale oil).....	5% plus 1-4/5¢ lb. I.R. tax	5% plus 1½¢ lb. I.R. tax	54,871
34	Halibut-liver oil.....	10%	5%	69,979
34	Drugs of animal origin, n.e.s.....	5%	5%	641,897
37	Ethers and esters containing not more than 10% alcohol:			
	Ethyl chloride.....	15¢ lb.	7½¢ lb.	—
	Ethylether.....	4¢ lb.	2¢ lb.	—
38	Chlorophyll extract.....	15%	7½%	—
40	Formaldehyde, solid or paraformaldehyde.....	8¢ lb.	4¢ lb.	—
40	Formaldehyde solution or formalin.....	1½¢ lb.	7/8¢ lb.	—
41	Pectin.....	25%	12½%	10
41	Casein glue.....	30%	15%	170

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RESPECTING WHICH CONCESSIONS WERE OBTAINED UNDER THE GENERAL
AGREEMENT ON TARIFFS AND TRADE, TORQUAY, 1950-1951—Continued

U.S. Tariff Para.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	U.S. Imports From Canada 1949
				\$
43	Ink and ink powders, n.s.p.f.:			
	Printing and lithographic.....	10%	5%	2,722
	Writing and copying.....	10%	5%	8
	Other.....	10%	5%	6,864
	Drawing.....	15%	7½%	—
46	Lead acetate, brown, gray or yellow.....	2¢ lb.	1¢ lb.	—
46	Lead acetate, white.....	2½¢ lb.	1½¢ lb.	—
46	Lead arsenate, lead resinate.....	3¢ lb.	1½¢ lb.	—
49	Carbonate of magnesia: manufactures of.....	2¢ lb.	1¢ lb.	—
52	Seal oil.....	3¢ gal. plus 2-7 lb. I.R. tax	3¢ gal. plus 1½ lb. I.R. tax	1,883
52	Marine-animal and fish oils, n.s.p.f. (except shark and dogfish oil and shark-liver and dogfish liver oil).....	20% plus 3¢ lb. I.R. tax	10% plus 1½¢ lb. I.R. tax	2,899
52	Animal oils, n.s.p.f. inedible.....	10% plus 2-7¢ lb. I.R. tax	10% plus 1-5¢ lb. I.R. tax	—
52	Animal, oils and fats, n.e.s., edible.....	20%	10%	8
52	Animal fats and greases, n.s.p.f.....	10% plus 2-7¢ lb. I.R. tax	10% plus 1-5¢ lb. I.R. tax	—
53	Rapeseed oil, n.e.s.....	6¢ gal. plus 4½¢ lb. I.R. tax	5½¢ gal. plus 2½¢ lb. I.R. tax	—
53	Expressed or extracted vegetable oils, n.s.p.f.....	20%	10%	—
63	Phosphorus.....	8¢ lb.	4¢ lb.	3
63	Phosphorous oxychloride.....	6¢ lb.	3¢ lb.	530
66	Mineral earth pigments, n.s.p.f.....	25%	12½%	—
67	Barytes ore:			
	Crude.....	\$3.50 ton	\$3.50 ton	60,429
	Ground or manufactured.....	\$7.50 ton	\$6.50 ton	—
72	Litharge.....	2½¢ lb.	1½¢ lb.	34,379
72	White lead.....	2-1/10¢ lb.	1-1/20¢ lb.	73,244
73	Synthetic iron-oxide and iron hydroxide pig- ments, n.s.p.f.....	15%	10%	108,687
86	Strychnine alkaloid, sulphate, and salts, n.s.p.f. .	20¢ oz.	19¢ oz.	4
88	Tin bichloride, tin tetrachloride, and other chemical compounds, mixtures, and salts, tin chief value.....	25%	12½%	242
95	Azides, fulminates, fulminating powders and like articles.....	12½¢ lb.	10¢ lb.	—
97	Tar and pitch of wood and tar oil from wood.....	1¢ lb.	1¢ lb.	—

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AGREEMENT ON TARIFFS AND TRADE, TORQUAY, 1950-1951—Continued

U.S. Tariff Para.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	U.S. Imports From Canada 1949
				\$
	EARTHS, EARTHENWARE, AND GLASSWARE			
201(b)	Brick, n.s.p.f., not glazed, enamelled, etc.....	\$1.00 M	\$0.50 M	92,873
204	Magnesite, dead-burned or grain, and periclase...	23/40¢ lb.	23/60¢ lb.	133,518
205	Manufactures of plaster of Paris.....	35%	17½%	519
207	Feldspar, crude.....	25¢ ton	12½¢ ton	107,925
207	Silica, crude, n.s.p.f.....	\$3.50 ton	\$1.75 ton	—
207	Fluospar, containing above 97% of calcium fluoride.....	\$5.60 ton	\$2.10 ton	361,623
207	Bentonite: Unwrought and unmanufactured.....	75¢ ton	37½¢ ton	—
	Wrought or manufactured.....	\$1.625 ton	81½¢ ton	—
207	Clays or earths artificially activated.....	½¢ lb. plus 30%	½¢ lb. plus 15%	—
208(g)	Phlogopite, waste and scrap, valued not more than 5¢ lb.....	15%	12½%	2,666
208(h)	Mica, ground or pulverized.....	15%	12½%	16,941
209	Talc, steatite, or soapstone, ground, washed, powdered, or pulverized, (except toilet prepara- tions) valued not over \$14 per ton.....	10%	8¼%	40,453
212	China and porcelain sanitary articles: Closets, bowls, lavatories, sinks, etc.: Plain white, not painted, colored.....	60%	35%	83
	Decorated, coloured, etc.....	70%	35%	—
214	Crushed or ground stone, n.s.p.f.....	10%	7½%	5,204
214	Feldspar, ground.....	15%	7½%	—
217	Unfilled vials and ampoules: Holding less than ¼ pint.....	50¢ gross	25¢ gross	—
	Holding not less than ¼ pint and not more than 1 pint.....	1½¢ lb.	¾¢ lb.	—
	Holding more than 1 pint.....	1¢ lb.	¾¢ lb.	—
	METALS AND MANUFACTURES OF			
301	Molybdenum content in excess of 2/10% contained in any article provided for in para. 301—addi- tional duty on molybdenum content.....	65¢ lb.	35¢ lb.	—
301	Pig Iron: Containing not more than 0.04% phosphorus...	75¢ ton	60¢ ton	206,461
	Containing more than 0.04% of phosphorus....	75¢ ton	60¢ ton	290,379
302(d)	Ferromanganese containing not less than 4% carbon.....	11/16¢ lb. on metallic manganese content	¾¢ lb. on metallic manganese content	4,762,495

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U.S. Tariff Para.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	U.S. Imports From Canada 1949
				\$
302(e)	Manganese silicon: containing not over 45% man- ganese.....	1½¢ lb. on manganese content plus 15%	15/16¢ lb. on manganese content plus 7½%	—
302(f)	Ferromolybdenum, molybdenum metal and powder, calcium molybdate, and other com- pounds and alloys of molybdenum.....	50¢ lb. on on molyb- denum content plus 15%	25¢ lb. on molyb- denum content plus 7½%	—
302(i)	Ferrosilicon, containing.....	1½¢ lb. on silicon content	1¢ lb. on silicon content	18,707
	Silicon: 30% and less than 60%.....	2¢ lb. on silicon content	1½¢ lb. on silicon content	21,867
	60% and less than 80%.....	2½¢ lb. on silicon content	2¢ lb. on silicon content	—
302(i)	Silicon metal.....	8¢ lb. on silicon content	4¢ lb. on silicon content	12
302(j)	Silicon aluminum and aluminum silicon.....	5¢ lb.	2½¢ lb.	35,927
302(k)	Chrome metal or chromium metal.....	25%	12½%	—
302(l)	Chromium carbide, vanadium carbide.....	25%	12½%	—
302(l)	Chromium nickel, chromium silicon and chrom- ium vanadium.....	25%	12½%	—
302(l)	Manganese copper.....	25%	12½%	—
302(m)	Ferrophosphorus, ferrozirconium, zirconium ferro- silicon, ferroboron, ferroaluminum vanadium, ferromanganese vanadium, ferrosilicon vana- dium, and ferrosilicon aluminum vanadium....	25%	12½%	—
302(n)	Titanium.....	25%	20%	—
302(n)	Barium, boron, strontium, thorium, vanadium..	25%	12½%	1,958
302(n)	Calcium metal.....	25%	17½%	4,736
302(n)	Alloys of two or more of the metals calcium, titanium, barium, boron, strontium, thorium, vanadium and zirconium.....	25%	12½%	—
302(n)	Calcium silicide (calcium silicon) and zirconium silicon.....	25%	12½%	—
302(o)	Alloys, n.s.p.f. used in the manufacture of steel or iron and containing not less than 28% of iron, not less than 18% aluminum, and not less than 18% silicon, and not less than 18% manganese.	12½%	6¼%	—
304	Hollow bars and hollow drill steel: Valued above 5 and not above 8 cents per lb....	¾¢ lb. plus 15%	¾¢ lb. plus 10%	—
	Valued above 16¢ lb.....	¾¢ lb. plus 15%	¾¢ lb. plus 12½%	—

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U.S. Tariff Para.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	U.S. Imports From Canada 1949
305	All steel or iron in the materials and articles enumerated or described in paragraphs 303, 304, 307, 308, 312, 313, 315, 316, 317, 318, 319, 322, 323, 324, 327 and 328 containing more than .2 per cent molybdenum—additional duty on molybdenum content.....	65¢ lb.	35¢ lb.	\$ N.A.
316(a)	Wire composed of iron, steel, or other metal, not specially provided for (except gold, silver, platinum, tungsten, or molybdenum).....	15%	12½%	14,239
316(b)	Ingots, shot, bars, sheets, wire, or other forms, n.s.p.f. or scrap, containing over 50% of tungsten, tungsten carbide, molybdenum, or molybdenum carbide, or combinations thereof: Ingots, shot, bars, or scrap..... sheets, wire, or other forms.....	30% 40%	25% 30%	— —
318	Woven-wire cloth, gauze, fabric, or screen, made of any metal or alloy, not specially provided for: With meshes finer than 30 but not finer than 90 wires to the lineal inch in warp or filling: With meshes finer than 90 wires to the lineal inch in warp or filling.....	3¢ sq. ft. 12% min. 24% max. 30%	2½¢ sq. ft. 10% min. 20% max. 25%	3,541 32
322	Rail braces and bars for railways.....	1/10¢ lb.	1/20¢ lb.	590
322	Rails.....	1/10¢ lb.	1/20¢ lb.	2,647
326	Blacksmith's tools.....	1½¢ lb.	11/16¢ lb.	604
327	Sadirons, tailors' and hatters' irons, not electric, andirons, plates, stone plates, castings, and vessels of cast iron.....	10%	5%	1,166
327	Castings or cast-iron plates, machined or advanced, not made into articles.....	10%	5%	921
328	Welded cylindrical furnaces, and tubes or flues of plate metal, corrugated, ribbed, or reinforced.....	25%	12½%	5,470
328	Rigid tubes or pipes for electrical conduits.....	30%	15%	
329	Chains of iron or steel and parts: Not less than ¾ inch in diameter..... Less than ¾, not less than 5/16 inch in diameter.....	¾¢ lb. 1¢ lb.	7/16¢ lb. ¾¢ lb.	492 128
331	Cut nails and spikes over 2 inches long.....	3/10¢ lb.	2/10¢ lb.	1,799
334	Steel wool.....	10¢ lb. plus 30%	5¢ lb. plus 15%	—
340	Circular saws.....	20%	10%	3,711
341	Steel plates, stereotype plates, electrotpe plates, half-tone plates, photogravure plates, photo-engraved plates and plates of other materials, engraved or otherwise prepared for printing, and plates of iron or steel engraved or fashioned for use in the production of designs, patterns, or impressions on glass in the process of manufacturing plate or other glass.....	15%	12½%	—
341	Lithographic plates of stone or other material engraved, drawn, or prepared.....	15%	12½%	—

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U.S. Tariff Para.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	U.S. Imports From Canada 1949
343	Latch needles.....	\$2.00 per M plus 60%	\$1.00 per M plus 30%	\$ 2,297
343	Spring-beard needles.....	\$1.50 per M plus 50%	75¢ per M plus 25%	250
352	Tools of steel for cutting metals, n.s.p.f.....	50%	25%	5,213
353	Transformers and parts.....	15%	12½%	7,599
353	Radio apparatus and parts.....	15%	12½%	216,021
353	Sockets, attachment plugs, and switches not over 10 amperes, cutouts, and fuses not over 30 am- peres, and other wiring devices such as are used in house wiring.....	35%	17½%	564
353	Articles having as an essential feature an elec- trical element or device, n.s.p.f.:			
	Motors, stationary, railway, vehicle, and other, n.e.s.....	15%	12½%	361,211
	Parts of above named motors.....	15%	12½%	21,765
	Internal combustion engines, carburetor type and parts.....	10%	8½%	38
	Electric furnaces, heaters and ovens, and parts.....	15%	12½%	89,790
	Batteries, other than storage.....	35%	17½%	779
	Steam boilers operating with water under forced circulation at least 8 times the rate of evaporation, etc., and parts.....	15%	13½%	—
	"Other" machines and parts which would be dutiable under para. 372 if of a kind which could be designed to operate with- out an electrical element.....	15%	13½%	97,220
	"Other" articles and parts, having as an essential feature an electrical element or device, n.s.p.f.....	15%	13½%	104,315
353	Electrical goods and parts, n.s.p.f.....	15%	12½%	22,770
359	Dental burs.....	35%	25%	5,263
368(g)	Taximeters and parts.....	45%	42½%	—
370	Pleasure boats, valued not more than \$15,000 each:			
	Motor propelled.....	15%	7½%	174,982
	Other.....	15%	7½%	24,114
370	Internal combustion motor boat engines:			
	Carburetor type.....	15%	8½%	12,595
	Other.....	15%	8½%	91
372	Bookbinding machinery and parts.....	25%	12½%	—
372	Paper box machinery and parts.....	20%	12½%	1,807
372	Apparatus for generation of acetylene gas from calcium carbide, and parts.....	15%	10%	3,327

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U.S. Tariff Para.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	U.S. Imports From Canada 1949
				\$
372	Carburetor type internal combustion engines and parts.....	10%	8½%	38,512
372	Cash registers and parts.....	15%	12½%	21,071
372	Compressors, air and gas, and parts.....	15%	13½%	26
372	Brewing machines and parts.....	15%	13½%	—
372	Mining machinery and parts.....	15%	13½%	56,605
372	Machines for making paper pulp or paper, and parts of.....	15%	10%	354,737
372	Wrapping and packaging machinery and parts, n.e.s.....	15%	13½%	32,285
372	Sawmill and Other Wood-working Machines and Parts: Reciprocating gang-saw machines and parts..	15%	13½%	4,994
	Other saw-mill and wood-working machines and parts.....	15%	13½%	367,590
372	Machinery and parts, n.e.s.....	15%	13½%	1,717,480
372	Cream separators, valued over \$100 each.....	25%	12½%	29,776
372	Printing machinery.....	25%	12½%	43,232
372	Looms (including hand looms).....	40%	20%	N.S.S.
374	Aluminum metal and alloys, crude.....	2¢ lb.	1½¢ lb.	18,750,932
380	German silver or nickel silver, unmanufactured..	20%	10%	—
382(a)	Bronze powder not of aluminum.....	14¢ lb.	10¢ lb.	11,670
389	Nickel tubes or tubing: Not cold-rolled, cold-drawn, or cold worked...	12½%	6½%	—
	Cold-rolled, cold-drawn, or cold worked.....	17½%	8½%	—
391	Lead-bearing ores, flue dust, and mattes of all kinds.....	1½¢ lb. on lead content	¾¢ lb. on lead content	5,313,450
392	Lead bullion or base bullion, lead in pigs and bars, lead dross, reclaimed lead, scrap lead, antimonial lead, antimonial scrap lead, type metal, Babbit metal, solder, all alloys or combinations of lead not specially provided for.....	2-1/8¢ lb. on lead content	1-1/16¢ lb. on lead content	18,065,627
392	Lead in sheets, pipe, shot, glazier's lead, and lead wire.....	2-3/8 lb. on lead content	1-5/16¢ lb. on lead content	39,430
393	Zinc-bearing ores of all kinds, except pyrites containing not over 3% of zinc.....	¾¢ lb. on zinc content	3/5¢ lb. on zinc content	5,067,452
396	Mechanics' hand tools.....	45%	22½%	—
397	Heating and cooking stoves, n.s.p.f., and parts...	22½%	12½%	5,372

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U.S. Tariff Para.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	U.S. Imports From Canada 1949
397	Styluses.....	22½%	11½%	\$ —
393	Zinc in blocks, pigs or slabs, and zinc dust.....	7/8¢ lb. on zinc content	7/10¢ lb. on zinc content	26,161,497
WOOD AND MANUFACTURES OF				
405	Plywood, Douglas fir.....	40%	20%	*104,018
405	Plywood, Birch.....	20%	15%	1,921,843
405	Plywood, other, except birch, alder, red pine, Douglas fir, Parana pine, Spanish red cedar, okume, baboon, and except plywood with face ply of western or red cedar.....	40%	20%	*
406	Blocks or sticks, heading and stave bolts, hubs for wheels, rough hewn, shaped, sawed or bored	5%	2½%	225,313
407	Beer barrels or kegs, empty.....	15%	7½%	—
407	Packing boxes and shooks, n.s.p.f.....	15%	3½%	253,027
412	Paint Brush handles.....	15%	10%	196,790
412	Broom and mop handles, not less than ¾ inch in diameter, not less than 38 inches long.....	15%	10%	111,678
412	Canoes and paddles.....	15%	10%	7,517
412	Carriages, drays, trucks and other vehicles, horse drawn.....	16-2/3%	10%	1,628
412	Ice hockey sticks.....	15%	10%	23,874
412	Toboggans.....	15%	10%	2,558
AGRICULTURAL AND FISHERY PRODUCTS AND PROVISIONS				
701	Beef and mutton tallow: Edible.....	½¢ lb. plus 1½¢ lb. I.R. Tax	1/8¢ lb. plus ¾¢ lb. I.R. Tax	434
	Inedible.....	½¢ lb. plus 1½¢ lb. I.R. Tax	1/8¢ lb. plus ¾¢ lb. I.R. Tax	103,524
702	Sheep and lambs.....	\$3.00 head	75¢ head	790,000
706	Meats, fresh, chilled or frozen, n.s.p.f. except edible offal.....	6¢ lb.; 20% min.	3¢ lb.; 10% min.	7,385
707	Cream, fresh: On annual quota of 1.5 million gallons.....	20¢ gal.	15¢ gal.	—
	On excess of quota.....	56-6¢ gal.	56-6¢ gal.	
708(c)	Malted milk and compounds or mixtures of or substitutes for milk or cream.....	35%	17½%	8
710	Cheese, cheddar, not processed.....	3½¢ lb.; 17½¢ min.	3¢ lb.; 15% min.	673,856

*Imports for plywood, other, included in figure of \$104,018 shown for Douglas fir.

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U.S. Tariff Para.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	U.S. Imports From Canada 1949
710	Cheese, not elsewhere provided for.....	5¢ lb. 25% min.	5¢ lb. 20% min.	\$ 37,269
714	Horses, not for breeding or immediate slaughter:			
	Valued not over \$150 per head.....	\$10 head 15%	\$7.50 head 8½%	149,753 40,397
717(a)	Mackerel, fresh, whole or beheaded or eviscerated or both.....	¾¢ lb.	¾¢ lb.	64,143
718(a)	Sardines, not skinned or boned, but smoked before canning, packed in oil, valued over 18 but not over 23¢ lb.....	20%	15%	149,347
718(b)	Herring, in cans, not in oil, including kippered snacks.....	12½%	6½%	N.S.S.
718(b)	Fish cakes, balls, and puddings, canned, not in oil.....	12½%	6½%	2,868
718(b)	Sardines, canned, not in oil, weighing not over 8 oz.....	12½%	10%	299,256
718(b)	Salmon, canned.....	25%	15%	241,388
719(4)	Herring, pickled or salted:			
	In containers, not airtight, weighing not more than 15 lbs. each.....	15%	12½%	237
	In containers, not airtight, weighing more than 15 lbs. each.....	½¢ lb.	¾¢ lb.	7,723
720(a)	Fish, smoked or kippered, not in oil, not canned, weighing not more than 15 lbs. each:			
	Herring (except hard dry smoked).....	1¢ lb.	¾¢ lb.	8,132
	Other: (except salmon, herring, cod, haddock, hake, pollock and cusk).....	10%	6½%	5,389
721(b)	Razor clams, canned.....	10%	7½%	10,099
721(b)	Clam chowder, clam juice, and juice in combination with other substances.....	35%	17½%	1,398
721(d)	Caviar and other fish roe (except sturgeon):			
	Boiled and canned.....	15%	7½%	8,884
	Not boiled nor canned.....	10¢ lb.	5¢ lb.	30,348
724	Corn or maize: certified hybrid seed corn.....	25¢ bu.	12½¢ bu.	N.S.S.
726	Oats, unhulled, ground.....	25¢/100 lbs.	12½¢/100 lbs.	4,263
726	Oatmeal, rolled oats, oat grits, etc.....	10% min. 40¢ max. 80¢/100 lbs.	10% min. 20¢ max. 80¢/100 lbs.	5,243
728	Rye malt.....	30¢/100 lbs.	22½¢/100 lbs.	—
728	Rye flour and meal.....	30¢/100 lbs.	22½¢/100 lbs.	—
730	Mixed feeds.....	5%	2½%	51,447
730	Dog food, canned, containing grain products.....	5%	2½%	40

IMPORTS INTO THE UNITED STATES OF PRINCIPAL ITEMS OF INTEREST TO CANADA
RESPECTING WHICH CONCESSIONS WERE OBTAINED UNDER THE GENERAL
AGREEMENT ON TARIFFS AND TRADE, TORQUAY, 1950-1951—Continued

U.S. Tariff Para.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	U.S. Imports From Canada 1949
732	Cereal breakfast foods, n.s.p.f.	10%	5%	\$ 22,701
736	Blueberries:			
	Frozen.....	10%	8½%	399,152
	Otherwise prepared or preserved (not including in brine or dried desiccated or evaporated)....	10%	8½%	862
742	Grapes, other than hothouse, July 1 to February 14.....	17½¢ cu. ft.	12½¢ cu. ft.	220,419
752	Cantaloups, August 1 to September 15.....	25%	20%	1,551
753	Tulip bulbs.....	\$3 per M.	\$2 per M.	7,578
753	Lily bulbs.....	\$6 per M.	\$4.50 per M.	10,609
753	Other bulbs, roots, rootstocks, etc.....	10%	7½%	29,060
762	Sunflower seed.....	2¢ lb.	1¢ lb.	15,323
763	Vetch seed other than hairy.....	1½¢ lb.	1¢ lb.	—
764	Cauliflower seed.....	25¢ lb.	12½¢ lb.	43
764	Flower seeds.....	3¢ lb.	1½¢ lb.	22,985
764	Carrot seed.....	3¢ lb.	1½¢ lb.	157
764	Parsnip seed.....	3¢ lb.	2¢ lb.	4
764	Garden and field seeds n.s.p.f.....	2¢ lb.	1½¢ lb.	12,756
766	Beets, fresh (other than sugar).....	10%	5%	27,861
770	Onion sets.....	2½¢ lb.	1¼¢ lb.	10
774	Cauliflower, August 6 to October 15.....	25%	12½%	13,421
774	Radishes, September 1 to June 30.....	25%	12½%	33
775	Cucumbers, pickled.....	25%	17½%	38,234
781	Mustard seed, whole.....	1¼¢ lb.	¾¢ lb.	455,134
	SPIRITS, WINES AND OTHER BEVERAGES			
802	Whiskey, (except scotch and scotch type and Irish and Irish type).....	\$1.50 pf. gal.	\$1.25 pf. gal.	25,182,045
805	Liquid malt, malt sirup, and fluid malt extracts, n.e.s.....	\$1.00 gal.	50¢ gal.	—
805	Malt extract, solid or condensed:..... Grape juice, sirup, and similar grape products:	60%	30%	—
806(a)	Containing or capable of producing less than 1% alcohol.....	70¢ gal.	45¢ gal.	—
	Containing or capable of producing 1% or more alcohol.....	70¢ gal. plus \$5 p.f. gal. on contained alcohol or that can be produced	45¢ gal. plus \$2.50 p.f. gal. on contained alcohol or that can be produced	—

IMPORTS INTO THE UNITED STATES OF PRINCIPAL ITEMS OF INTEREST TO CANADA
RESPECTING WHICH CONCESSIONS WERE OBTAINED UNDER THE GENERAL
AGREEMENT ON TARIFFS AND TRADE, TORQUAY, 1950-1951—Continued

U.S. Tariff Para.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	U.S. Imports From Canada 1949
	TEXTILES			\$
912	Loom harness, healds and collets of vegetable fibre.....	35%	17½%	—
923	Manufactures of cotton, n.s.p.f.:	40%	30%	39,186
1001	Flax straw.....	\$1.50 ton	75¢ ton	20,592
	Flax tow.....	½¢ lb.	¼¢ lb.	159,413
1105	Wool wastes:			
	Noils, carbonized.....	17¢ lb.	16¢ lb.	958
	Thread or yarn waste.....	11½¢ lb.	10¢ lb.	340,083
	Card or burr waste, not carbonized.....	10½¢ lb.	9¢ lb.	26,335
1107	Yarns of wool.....	30¢ lb. plus 20%	30¢ lb. plus 15%	91,276
1116(a)	Oriental, Axminster and other carpets, etc., not made on a power loom.....	15¢ sq. ft. 22½% min.	12½¢ sq. ft. 11¼% min.	20,452
1203	Thrown silk, not more advanced than singles, tram or organzine.....	20%	10%	349,024
1204	Sewing silk, twist, floss, and silk threads or yarns, n.s.p.f.....	40%	20%	8,731
	PAPER AND BOOKS			
1402	Leather board or compressed leather, counter board, and solid fiber shoe board, not processed.....	10%-7½%	127,536	
1404	Tissue and papers similar to tissue, stereotype, copying, condenser, carbon, bibulous, pottery, waxing, india and bible papers, valued not over 15 cents pound:			
	Weighing not over 6 pound to the ream.....	3¢ lb. and 10%	1½¢ lb. and 5%	—
	Weighing over 6 and less than 10 pounds.....	2½¢ lb. and 7½%	1¼¢ and 3½%	—
1405	Surfaced coated paper embossed or printed otherwise than lithographically.....	4½¢ lb. and 10%	2½¢ lb. and 10%	6,873
1405	Gummed papers.....	5¢ lb.	2½¢ lb.	241
1405	Boxes of paper or papier mache, etc., covered or lined			
	With cotton or other vegetable fibre.....	5¢ lb. plus 10%	2½¢ lb. plus 5%	23,424
	With paper.....	5¢ lb. plus 5%	2½¢ lb. plus 5%	7,525
1406	Labels and flaps printed in metal leaf.....	60¢ lb.	30¢ lb.	21,574
1409	Hanging paper not printed, lithographed, dyed or colored.....	7½%	5%	1,522
1410	Printed matter not of bona fide foreign authorship (except books, pamphlets, music and tourist literature).....	15%	10%	21,355
1413	Pulpboard in rolls for wallboard, surface stained, lined or plate finished.....	10%	7½%	1,344,137
1413	Ribbon fly catchers or fly ribbons of paper.....	27½%	20%	—

IMPORTS INTO THE UNITED STATES OF PRINCIPAL ITEMS OF INTEREST TO CANADA
RESPECTING WHICH CONCESSIONS WERE OBTAINED UNDER THE GENERAL
AGREEMENT ON TARIFFS AND TRADE, TORQUAY, 1950-1951—Continued

U.S. Tariff Para.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	U.S. Imports From Canada 1949
	MISCELLANEOUS:			\$
1502	Lacrosse sticks.....	10%	7½%	17,157
1502	Ice skates and parts.....	15%	12½%	177,810
1502	Roller skates and parts.....	15%	10%	270
1513	Toy games, containers, favours and souvenirs....	70%	50%	19
1513	Toys having a spring mechanism.....	70%	50%	—
1513	Miscellaneous toys and parts.....	70%	35%	5,089
1514	Manufactures of artificial abrasives.....	10%	5%	1,154
1517	Percussion caps.....	30%	15%	—
1527	Stampings, galleries, etc., of metals other than gold or platinum.....	80%	40%	211,385
1530(b)	(4) Cattle side upper leathers: grains.....	12½%	10%	60,512
1530(b)	Glove and garment leather, bovine in the rough..	15%	10%	104,826
1503(c)	Glove and garment leather, other than bovine...	15%	10%	70,471
1530(e)	Men's or boys' leather footwear n.e.s.....	20%	10%	262,997
1530(e)	Boots, shoes and other footwear, with uppers and soles in chief value of wool felt..... *Includes all textile shoes, n.e.s.	35%	17½%	*17,869
1530(e)	Skating boots and shoes, McKay sewed, attached to ice skates.....	15%	12½%	62
1537(b)	Rubber heels and soles.....	25%	12½%	1,062
1539(b)	Laminated products and manufactures having a synthetic resin or resinlike binder: Sheets or plates.....	15¢ plus 25%	7½¢ lb. plus 12½%	81
	Manufactures, n.e.s.....	50¢ lb. plus 40%	25¢ lb. plus 20%	275
1539(b)	Manufactures of non-laminated plastics having a synthetic resin or resinlike binder.....	35¢ lb. plus 30%	25¢ lb. plus 20%	1,073
1541(a)	Organs and parts (except pipe organs).....	40%	20%	295
1541(a)	Pianos and parts.....	40%	20%	2,222
1541(a)	Pipe organs and parts.....	15%	10%	201,509
1541(a)	Tuning pins.....	\$1 m plus 35%	50¢ m plus 17½%	—
1548	Peat moss, poultry and stable grade.....	50¢ ton	25¢ ton	890,230
1555	Waste, n.s.p.f.....	7½	4%	260,441
1558	Brewers' yeast, non-alcoholic.....	20%	10%	—
1558	Other yeast.....	20%	10%	2,261
1558	Fatty acids:			
	Linseed oil.....	15% plus 4½¢ lb. I.R. tax	10% plus 4½¢ lb. I.R. tax	—
	Cottonseed oil.....	15%	10%	10,579
	Soybean oil.....	15%	10%	—
	Fatty acids of other vegetable, animal or fish oils.....	15%	10%	40,184

IMPORTS INTO THE UNITED STATES OF PRINCIPAL ITEMS OF INTEREST TO CANADA
RESPECTING WHICH CONCESSIONS WERE OBTAINED UNDER THE GENERAL
AGREEMENT ON TARIFFS AND TRADE, TORQUAY, 1950-1951—*Concluded*

U.S. Tariff Para.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	U.S. Imports From Canada 1949
				\$
1558	Manufactured dutiable articles, n.e.s.....	20%	10%	71,679
	Free List:			
1610	Antitoxins, serums, vaccines, viruses, and bac- terins for therapeutic purposes.....	Free	Free	5,392
1643	Shoe machine and parts.....	Free	Free	87,983
1664	Metallic mineral substances, crude such as dios- ses, skimmings, residues.....	Free	Free	136,068
1669	Fish oils, n.e.s.....	Free plus 1-4/5¢ lb. I.R. tax	Free plus 1½¢ lb. I.R. tax	
1671	Eggs of birds, fish and insects.....	Free	Free	22,582
1685	Limestone, crude, crushed, or broken, ground or pulverized, imported for use in the manufac- ture of fertilizer.....	Free	Free	56,038
1695	Horse and mules for immediate slaughter.....	Free	Free	417,374
1700	Dross or residium from burnt pyrites.....	Free	Free	27,601
1719	Vanadium or ore concentrates.....	Free	Free	—
1722	"Other" moss, seaweed and vegetable substances	Free	Free	—
1732	Rapeseed oil for mechanical or manufacturing purposes.....	Free plus 4½¢ lb. I.R. tax	Free plus 2½¢ lb. I.R. tax	110,721
1791	Typewriters.....	Free	Free	1,776,782
1803(3)	Evergreen Christmas trees.....	Free	Free	2,089,238

TARIFF CONCESSIONS MADE BY OTHER COUNTRIES
WHICH ARE OF INTEREST TO CANADA

NOTE:—It was not possible to use the trade statistics of the various countries concerned since in many cases the statistics are not yet available for 1949. Therefore, the statistics shown in the final column of the accompanying tables are Canadian exports for 1949. Since the Canadian statistical classifications do not necessarily correspond exactly with the tariff classifications of the various countries which made concessions, the figures are only intended to be illustrative. In a number of cases the Canadian statistics do not separately show the trade in items respecting which there are tariff concessions, thus it has not been possible to indicate statistically the trade involved in these instances.

Concessions Accorded by AUSTRIA on Principal Items of Interest to Canada

Specific rates shown in gold crowns are payable in paper schillings converted at the rate of
1 gold crown equals 6.96 schillings.

Item No.	Brief Description	Pre-Torquay Rate	Agreement Rate	Exports from Canada to Austria
		(Gold Crowns)		1949 \$
ex 23	Seed wheat.....100 kg	16	Free	—
ex 24	Seed rye.....100 kg	10	Free	—
ex 25	Seed barley.....100 kg	10	Free	—
ex 26	Seed oats.....100 kg	6	Free	—
ex 27	Seed corn.....	Free	Free	—
39b 1	Seed potatoes.....100 kg	3	Free	—
42	Clover seed.....100 kg	20	10	—
43	Grass seed.....100 kg	10	5	—
44	Seeds, n.s.m.....100 kg	10	5	282,159
52 ex b	Cattle for breeding.....	150	Free	—
64 ex b	Dried eggs.....100 kg	40	30	—
107 ex b	Canned salmon and other canned fish...100 kg	85	15%	—
ex 254	Synthetic rubber.....	Free	Free	15,753
261	Tires for road vehicles and aircraft:			
a1	Casings for motor vehicles.....100 kg	350	200	75,503
a2	Other casings.....100 kg	250	160	26,708
b1	Tubes for motor vehicles.....100 kg	350	150	6,798
b2	Other tubes.....100 kg	150	150	—
275	Raw hides and skins.....	Free	Free	966,271
365 c2	Ferro-chromium.....	Free	Free	277,816
412a	Aluminum, crude, old, and scrap.....100 kg	40	20	—
452 ex a	Carbon electrodes for manufacture of aluminum more than 5 kg. per lineal meter.....	Free	Free	—
439b ex 1	Threshing machines weighing each 3,000 kilograms or more.....100 kg	25	20	—
439c	Cream separators.....	Free	Free	288
439 d2 ex A	Reaper binders, sheaf binders.....100 kg	45	12	80,366
439 d2 ex A	Disc harrows, seed drills, hay-tedders 100 kg	45	30	5,750
439 d2 ex A	Manure spreaders, reaping and moving machines, chaffcutters, seed cleaning machines.....100 kg	45	45	n.s.s.
439 d2 ex B	Parts of ploughs.....100 kg	30	30	25,012 (Including ploughs)
	Total.....			\$1,763,424

Concessions by BENELUX on Principal Items of Interest to Canada

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Benelux
				1949 \$
3	Bovine cattle for breeding purposes.....	9%	Free	—
49 ex (b)	Seed potatoes October 1 to last day of February	10%	5%	—
51 ex (a)	Beans, dried except horse beans.....	Free	Free	2,413
75 ex (a)	Wheat flour.....	Free entry of 50,000 tons	Free entry of 65,000 tons	895,533
117 ex (b)	Meat soups up to 20 per cent meat.....	30%	25%	27,068
148 ex (a)	Tomato and pea soups.....	30%	25%	
279(b) 1	Artificial thermoplastic materials, including chemically modified rubber less than 0.75 mm. thick, in rolls or in sheets.....	20%	20%	232,265
375(c) 2	Rubber tire casings except bicycle.....	24%	24%	703,949
384(a) 2	Coniferous wood simply sawn lengthwise, less than 76.2 millimetres thick, 279.4 millimetres wide and 7.01 metres long.....	3% (Temporarily suspended)	3%	674,662 (all sizes)
581 ex (a) 3	Stockings and socks of nylon.....	24%	24%	20,813
581 ex (b) 3	Stockings and socks of part nylon.....	24%	24%	
634	Grindstones, whetstones and polishing stones, of natural or artificial abrasives.....	10%	8%	38,295
730 ex (c)	Needles for hosiery and knitting machines.....	10%	10%	3,190 (all kinds)
982	Fountain pens and propelling pencils.....	18%	15%	39,345
	Total.....			2,637,533

Concessions by BRAZIL on Principal Items of Interest to Canada

Cruzeiro = 5.8 cents

Item No.	Brief Description	Unit	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Brazil
					1949 \$
ex 234	Oats, husked or pounded.....	Ton	742	530	N.S.S.
716	Zinc ingots and pigs.....	Ton	182	120	121,384
1157	Cobalt oxides:				
	Blue.....	KN	20.72	18.20	—
	Black.....	KN	8.40	7.30	—
982	Accelerators for rubber vulcanizing.....	KL	3.84	3.25	N.S.S.
	Total.....				121,384

Concessions by CHILE on Principal Items of Interest to Canada

Chilean Gold Peso=22.7 cents

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Chile
				1949 \$
17	Lead and alloys, containing more than 80% of lead, in ingots.....	Free	Free	—
19	Zinc in ingots.....	Free	Free	—
ex 1209	Zinc, in bars..... KG	0.20	0.10	—
1055	Pharmaceutical products..... KG	8.00	4.50	12,102
	Total.....			12,102

Concessions by CUBA on Principal Items of Interest to Canada

Cuban peso = U.S. dollar

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Cuba
				1949 \$
156-F	Transparent cellulose sheeting, plain..... kg.	\$0.175	\$0.15	n.s.s.
207-H	Radio and television sets, complete..... ad val.	34%	29.8%	97,532
207-I	Chassis for same..... ad val.	34%	27.3%	
223-A	Electric washing machines..... ad val.	15%	11.75%	458
247-A	Codfish and stockfish..... 100 kg.	4.125	4.00	2,341,409
302-A	Synthetic resins, in bulk..... kg.	0.18	0.10	
	Total.....			2,439,399

Concessions by DENMARK on Principal Items of Interest to Canada

Krone = 15.4 cents

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Denmark
				1949 \$
ex 4	Calcium chloride.....	Free	Free	—
41 ex c	Fish meal.....	Free	Free	260,279
ex 52	Carbon black.....per kg.	0.03	0.01	842
ex 54	Fish oils for manufacture of animal or human food.....	Free	Free	201
139 ex g	Barley.....	Free	Free	54,250
139 ex g	Oats.....	Free	Free	—
ex 222	Combines, combined with dynamos, generators or electric motors.....	7½%	Free	n.s.s.
ex 224	Combines.....	5%	Free	n.s.s.
ex 225	Parts of combines.....	5%	Free	n.s.s.
307 ex e	Tomato puree, canned, weighing at least, 5 kilos.....per kg.	0.40	0.20	—
ex 54	Whale oil, veterinary oil, cod-, herring- and seal oil.....	Free	Free	97,000
	Total.....			421,572

Concessions by DOMINICAN REPUBLIC on Principal Items of Interest to Canada

Dominican \$ = U.S. \$

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Dominican Republic
				1949 \$
272(c)	Electric refrigerators.....ad val.	45%	35%	2,519
ex 331(b)	Aluminum bars, sheets and wire.....KN	0.25	0.20	—
ex 331(h)	Aluminum foil.....KN	0.30	0.25	11,668
860	Phonographs.....ad val.	25%	20%	—
870	Radio and television receivers .....ad val.	25%	20%	5,536
ex 908	Smoked herring and alewives.....KN	0.0225	0.02	263,226
ex 909	Codfish, hake, pollock, cusk, haddock, dry or salted.....KN	0.0225	0.02	501,213
ex 910	Herring, mackerel, alewives in brine.....	0.015	0.01	3,500
ex 1009	Fruit, canned.....	0.12	0.10	—
ex 1035	Sardines, canned.....KN	0.15	0.12	51,781
1046(b)	Tires and tubes for trucks.....ad val.	15%	10%	68,799
	Total.....			908,302

Concessions Accorded by FRANCE on Principal Items of Interest to Canada

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to France
				1949 \$
ex 69-B	Dried whole beans.....	12%	6%	41,666
93	Wheat.....	30%	*	—
94	Rye.....	50%	30%	—
ex 98	Hybrid seed corn.....	30%	15%	n.s.s.
ex 162-B	Canned pork.....	50%	35%	—
ex 164	Canned salmon.....	25%	20%	—
168-A	Maple sugar and syrup.....	30%	20%	—
ex 195-A	Canned fruit and vegetable juices.....	18%	15%	—
296	Zinc ore.....	Free	Free	369,532
349	Selenium: Crude..... Other.....	10% 25%	Free Free	70,401
404	Artificial iron oxides.....	15%	15%	12,235
700-A	Polyvinyl acetate.....	35%	20%	416,854
700-D	Other polyvinyl esters and vinylic copolymers....	35%	30%	
700-I	Polystyrene.....	35%	30%	
ex 724-C	Aircraft tires.....	22%	18%	n.s.s.
ex 766-A	Planed props, conifers, not injected, impregnated or coated.....	10%	5%	n.s.s.
ex 784	Douglas fir veneer or plywood panels.....	20%	10%	—
ex 791	Assembled and unassembled packing cases and crates.....	15%	12%	—
825-D	Grease proof paper.....	20%	18%	n.s.s.
825-E	Tracing paper.....	25%	22%	n.s.s.
ex 830	Kraft paper or cardboard creped or crinkled.....	35%	25%	—
ex 949	Binder twine.....	20%	15%	934,576
ex 1057	Printed linoleum.....	35%	30%	3,835
1071-D	Men's and boy's work clothes.....	22%	20%	12,964
1347	Aluminum ingots, billets, pellets, and scrap waste	21%	20%	727,794
1353-A	Alloys of aluminum, raw.....	35%	21%	n.s.s.
1366	Zinc ingots, cathodes, powder and dust.....	15%	12%	1,164,780
1376	Lead ingots, blocks, pigs and rods.....	10%	8%	464,666
1377	Lead bars, wire, and shapes.....	20%	15%	—
1381	Lead tubes: In S for siphons..... Other tubes and pipes.....	25% 20%	18% 18%	— —

Concessions Accorded by FRANCE on Principal Items
of Interest to Canada—*Concluded*

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to France
				1949 \$
1415	Endless copper wire cloth.....	20%	18%	—
1527	Automobile and motorcycle engines.....	30%	25%	n.s.s.
ex 1539	Parts for car and motorcycle engines.....	30%	25%	n.s.s.
1551	Unfitted refrigerator cabinets, and ice boxes.....	30%	18%	—
1553	Air conditioning apparatus.....	30%	18%	n.s.s.
1612	Machinery for paper and cardboard making.....	20%	18%	1,433,715
1631-B	Sewing machine tables, furniture and parts.....	20%	16%	n.s.s.
1660-B	Bascules and sack filling weighing machinery....	30%	20%	n.s.s.
1676	Balls and needles for bearings.....	32%	28%	—
1708	Storage battery plates.....	25%	20%	—
1797	Passenger automobiles.....	35%	30%	55,699
1798-A	Trucks.....	35%	30%	—
1801	Automobile and truck bodies.....	30%	25%	n.s.s.
1802 and 1804	Automobile parts except shock absorbers.....	30%	25%	52,763
1828	Aircraft weighing:			
	Over 1,500 kilogs.....	25%	20%	—
	1,500 kilogs or less.....	35%	20%	—
1960	Shaving brushes.....	50%	35%	—
1961	Painting or drawing brushes.....	50%	30%	—
	Total.....			5,761,480

* No change in rate but the note negotiated at Geneva has been amended. The Geneva Agreement provided that the resale price of wheat imported by the Government Agency, exclusive of internal taxes and expense of distribution, shall not exceed by more than 15% the average landed cost, duty paid, of wheat imported during the previous quarter. Under the Torquay Agreement the average price to be considered in this regard is that of the previous harvest year instead of the previous quarter and it is provided further that it shall not be obligatory to reduce, during the course of a harvest year, the internal sale price of imported wheat by more than 20% of the internal sale price of the previous harvest.

Concessions Accorded by FRENCH OVERSEAS TERRITORIES on Principal Items of Interest to Canada

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada
	GUADELOUPE AND DEPENDENCIES			1949 \$
ex 25-A	Herring, salted, dried, smoked, kippers.....	30%	20%	—
	MARTINIQUE			
ex 25-A	Herring, salted, dried, smoked, kippers.....	30%	20%	—
ex 25-B	Codfish and halibut fillets.....	35%	10%	24,114
	FRENCH GUIANA			
ex 25-A	Herring, salted, dried, smoked, kippers.....	30%	20%	79
	REUNION			
ex 25-A	Herring, salted, dried, smoked, kippers.....	30%	20%	N.A.
	Total.....			24,193

Concessions by GERMANY on Principal Items of Interest to Canada

Deutsche mark (D.M.) equals 25·3 cents

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports Canada to Germany
				1949 \$
01-02	Cattle for breeding.....	Free	Free	—
02-01A ex 1	Horse meat, fresh, chilled or frozen.....	25%	20%	—
02-06 ex C	Bacon.....	30%	26%	1,019 (includes hams, shoulders, sides)
03-01A1	Salmon, fresh or frozen.....	15%	12%	—
03-01A ex 3	Eels fresh or frozen:			
	November 1 to April 30.....	10%	5%	—
	May 1 to October 31.....	10%	10%	—
03-02A ex 1	Salmon, salted or dried.....	12%	3%	—
02-02A ex 1	Fish roes, salted or dried.....	12%	Free	5,558
03-02B ex 2	Salmon, smoked.....	20%	18%	—
04-02 ex B	Milk Powder.....	25%	20%	202,453
ex 04-04	Cheese, including cheddar but no other hard cheese.....	30%	25%	—
04-06	Honey for manufacture of ginger bread in industrial plants.....	Free	Free	—

Concessions by GERMANY on Principal Items
of Interest to Canada—*Continued*

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports Canada to Germany
				1949 \$
ex 05-04	Sausage casings.....	5%	Free	—
07-05 O 1	Peas, whole, dried.....	10%	10%	28,575
08-06 A 2	Apples, fresh:			
	August 16 to November 30.....	25%	25%	—
	But not less than per 100 kg.....	—	6 D.M.	—
	December 1 to March 15.....	25%	20%	—
	But not less than per 100 kg.....	—	6 D.M.	—
	March 16 to August 15.....	25%	10%	—
	But not less than per 100 kg.....	—	3 D.M.	—
08-12 A	Dried apples and pears.....	10%	10%	—
10-01	Wheat, spelt and meslin.....	20%	20%	1,057,193
10-05	Corn.....	Free	Free	—
11-01 ex A	Wheat flour.....	Rate on wheat plus 15%	Rate on wheat plus 13%	1,587 747
12-01 F	Linseed.....	Free	Free	285,638
12-01 G	Mustard seed.....	Free	Free	—
12-03 B 1	Red Clover seed.....	10%	2%	1,068,764
12-03 B 2	Lucerne seed.....	10%	5%	—
12-03 B ex 3	Other grass and clover seeds:			
	White clover seed.....	15%	2%	258,002
	Rye grass seed.....	15%	10%	—
	Meadow grass seed.....	15%	5%	—
15-02	Inedible tallow.....	12%	Free	13,793 (includes all tallow)
15-04	Fats and oils of fish and marine animals:			
	A. Cod liver oil:			
	1 Crude.....	10%	5%	—
	2 Refined:			
	Mechanically refined.....	20%	10%	—
	Other, including pharmaceutical.	20%	15%	2,850
	ex B. Whale oil.....	Free	Free	—
	ex B. Other fish oils crude or refined.....	Free	Free	634,468
15-07 A ex 1	Linseed oil, crude.....	8%	6%	2,611,889
16-01 B	Canned sausage, other than liver.....	25%	22%	—
16-01 A 2	Canned meats, other than liver.....	25%	22%	539,217
16-03 A	Meat extracts in containers weighing gross 25 kilos or more.....	5%	3%	—
16-04 C 1a	Canned salmon.....	30%	25%	—
16-04 ex E	Canned herring, not over 16 centimetres in length.....	30%	20%	1,796
ex 16-05	Canned lobster.....	40%	30%	—
20-07 A 5	Tomato juice.....	15%	10%	—
23-01 A	Fish meal.....	10%	Free	—

Concessions by GERMANY on Principal Items
of Interest to Canada—*Concluded*

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports Canada to Germany
				1949 \$
23-02	Bran, sharps and similar milling products..	35%	18%	—
23-04	Oil cake and similar residues.....	10%	Free	458,576
ex 23-07	Condensed stickwater.....	25%	5%	—
25-26	Mica, split or not in irregular slabs and mica waste.....	Free	Free	—
25.31 A	Feldspar:			
	1 Crude.....	Free	Free	—
	2 Powdered.....	5%	5%	—
25-31 B	Fluospar.....	5%	5%	—
28-02 F 1	Carbon black and acetylene black.....	15%	15%	1,565
28-33 C	Artificial corundum.....	15%	15%	—
ex 32-12	Pearl essence.....	25%	20%	—
39-02 C	Polystyrene.....	20%	20%	25,905 (includes all synthetic resins)
40-11 B	Inner tubes for tires.....	35%	30%	6,370
40-11 D	Tire casings.....	35%	30%	65,069
43-01 ex C	Fur skins, raw, other than of Persian lamb, fox or marten.....	Free	Free	—
44-04 A ex 2	Pit props, coniferous.....	Free	Free	—
44-06 A	Sawn boards, coniferous.....	5%	5%	4,969
44-08 ex B	Railway sleepers, not impregnated, coniferous, more than 3 metres long, 30 centimetres wide and 18 centimetres thick...	Free	Free	—
44-20 B1a1	Birch plywood.....	12%	12%	—
44-20 B1a ex 2	Plywood of beech, alder or coniferous wood except pine.....	20%	20%	—
44-26 B2 b1	Box shooks.....	18%	15%	—
47-01 B2	Chemical wood pulp:			
	a. Unbleached:			
	1 Sulphate.....	13%	2%	1,745,180
	2 Other.....	13%	9%	—
	b. Bleached.....	13%	7%	3,349,479
	Total.....			12,956,075

Concessions by GREECE on Principal Items of Interest to Canada

Duties are expressed in metallic drachmae, but for purposes of assessing import duties they are converted into paper drachmae by means of a "coefficient of increase" which varies according to commodity. There is an additional coefficient applicable to all commodities alike which at present equals 225. At the present rate of exchange, one U.S. dollar equals 15,000 paper drachmae including exchange certificates.

Item No.	Brief Description	Coefficient of Increase	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Greece
					1949 \$
9a	Haricots.....	per 100 kg. 11	6	6	181,373
9b	Broad beans, vetch.....	per 100 kg. 15	5	4	
9c	Chick peas.....	per 100 kg. 15	6	5	
98 ex b	Chaff-cutters.....	per 100 kg. 25	5	5	N.S.S
123c	Aluminum in thin leaves for labels, bottle caps or wrapping.....	per 100 kg. 20	50	50	—
	Total.....				181,373

Concessions by HAITI on Principal Items of Interest to Canada

Gourde = 21.3¢

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Haiti
				1949 \$
2207	Cod liver oil.....	0.15 Gourde per kilo. net	0.10 Gourde per kilo. net	—
ex 12014	Fish in brine.....	20% ad val. or 0.17 Gourde per kilo. gross	20% ad val. or 0.17 Gourde per kilo. gross*	199,240
	Total.....			199,240

* The specific duty will be applied on the weight of the fish plus the weight of the outside container but excluding the brine, provided the exporting country furnishes a certificate of weight as defined in this note satisfactory to the Customs authority of Haiti (previously the weight of the brine was included in the dutiable weight).

Concessions by INDIA on Principal Items of Interest to Canada

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to India
				1949 \$
ex 8(4)	Apples, fresh.....ad val	30%	*	—
ex 10	Maize.....	Free	Free	75
15(5)	Fish oil and whale oil, hardened and hydro- genated.....per cwt.	10 rupees	8 rupees	—
ex 19	Milk foods for infants, canned or bottled..ad val	30%	25%	62,846 (milk preparations, n.o.p.)
ex 19	Oatmeal, canned or bottled.....ad val	30%	25%	769
ex 26	Copper ore.....	Free	Free	—
40(6)	Douglas fir.....ad val	20%	15%	11,338
ex 58(2)	High pressure jointings, mainly of asbestos.ad val	30%	25%	6,011
	Total.....			80,965

* Fresh apples shall be exempt from ordinary most-favoured-nation customs duties which exceed the preferential rate in the case of such products of British Colonial origin (the present rate on which is 24% ad val).

Concessions by INDONESIA on Principal Items of Interest to Canada

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Indonesia
				1949 \$
ex 245	Timber, sawn, of coniferous wood.....	Free	Free	—
ex 307	Unglazed wrapping paper, weighing 70 to 90 grammes per square metre, for the manufacture of packing bags.....	18%	9%	—
565 I b	Hand tools.....	9%	9%	—
719 I	Pumps.....	9%	9%	1,590
ex 726	Metal and wood working machines.....	9%	9%	9,002
727	Agricultural implements.....	9%	9%	—
	Total.....			10,592

Concessions by ITALY on Principal Items of Interest to Canada

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Italy
				1949 \$
3 ex d	Cattle without pedigree but of pure breed for dairying or breeding purposes.....	35%	Free	208,595
29a	Concentrated milk and cream not sweetened....	25%	18%	387,911
68c 1	Peas, split.....	15%	10%	—
68c 2	Other peas, dried.....	5%	5%	—
95a	Barley, unhulled.....	35%	30%	—
95b	Barley, hulled.....	35%	30%	—
95 ex b	Barley for malting.....	10% (on an annual quota of 170,000 quintals)	10% (on an annual quota of 170,000 quintals)	—
96	Oats.....	30%	25%	—
101c	Rolled oats.....	25%	20%	—
179a ex 3	Canned baked beans.....	25%	18%	—
206	Bran, sharps and other similar residues.....	20%	15%	16
313	Iron oxides.....	25%	22%	39,629
412a 1 A	Acetylene black.....	15%	10%	732
509a	Synthetic rubber.....	Free	Free	615,863
953e ex 1	Worked anodes for nickelling.....	22%	12%	—
1031 ex d	Liquid fuel pressure lamps and parts.....	20%	15%	—
ex 1079	Disc ploughs and other ploughs.....	20%	18%	58
ex 1080	Disc ploughs with seeder attachments.....	20%	18%	
1182a	Carbon electrodes.....	15%	13%	—
	Total.....			1,252,804

Concessions Accorded by KOREA on Principal Items of Interest to Canada

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Korea
				1949 \$
73	Ammonium nitrate.....	Free	Free	177,338
74	Ammonium sulphate, other than refined.....	Free	Free	
ex 77	Superphosphate and other unspecified chemical fertilizers.....	Free	Free	
412A	Wheat flour.....	10% ad val.	5% ad val.	—
420B	Tinned hams and other canned meat.....	40% ad val.	30% ad val.	—
422	Canned milk.....	25% ad val.	10% ad val.	—
701	Newsprint paper.....	10% ad val.	5% ad val.	2,389
741	Printed books, periodicals, catalogues.....	Free	Free	20
ex 937	Clover and grass seeds.....	15% ad val.	10% ad val.	—
	Total.....			179,747

Concessions by NORWAY on Principal Items of Interest to Canada

1 kr. = 15¢ Canadian

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Norway
		(Crowns)		1949 \$
ex 1	Acetone.....	Free	Free	—
ex 212	Oil cake and oil cake meal.....	Free	Free	—
217a	Fresh apples August 1 to February 15.... per kg.	0.80	0.50	—
218b	Fresh apples February 16 to March 15.... per kg.	0.40	0.40	—
220	Fresh pears August 1 to January 15.... per kg.	0.80	0.60	—
221	Fresh pears January 16 to July 31.... per kg.	0.20	0.20	—
ex 238	Dried apples..... per kg.	0.60	0.50	—
ex 254	Alfalfa lucerne and sunflower seeds.....	Free	Free	21,555
ex 538	Mowing machines.....	10%	10%	5,336
ex 937	Douglas fir plywood..... per kg.	0.12	0.12	48
ex 1025	Ethylene glycol.....	30%	15%	N.A.
	Total.....			26,939

Concessions by PERU on Principal Items of Interest to Canada

Sol=7.2 cents

Item No.	Brief Description	Unit	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Peru
			(Soles)	(Soles)	1949 \$
48	Whole powdered milk.....	KG	0.01	Free	26,992
49	Partially skimmed milk.....	KG	0.02	Free	
50	Whole powdered milk in bulk for industrial use.....	KG	0.10	0.10	
66	Smoked herrings.....	KG	1.00	0.50	—
68	Fish, dried and salted (klipp fish).....	KG	0.50	0.50	—
110	Crushed or rolled oats in bulk.....	KG	0.04	0.04	113,260
111	Crushed or rolled oats, packed.....	KG	0.06	0.04	
138	Fresh apples.....	KG	0.02	Free	
ex 174	Preserved peaches and pears.....	KG	0.70	0.15	—
198	Canned asparagus.....	KG	1.00	0.50	—
205	Tomatoes, preserved.....	KG	0.40	0.40	—
224	Powders or pastes for preparing soups....	KG	1.50	0.80	—
228	Liquid vegetable soups.....	KG	0.80	0.40	—
320	Gin and Old Tom.....	Litre	20.00	20.00	1,445
325	Whisky in bottles.....	Litre	20.00	20.00	8,245
367	Cod-liver oil.....		Free	Free	—
489	Sodium cyanide.....	KG	0.12	0.12	66,211 (soda and sodium compounds)
616	Calcium carbide.....	KG	0.06	0.06	106,586 (calcium compounds)
954	Paints with metallic pigments, of bronze or brass.....	KG	5.00	4.00	n.s.s.
1101	Transmission belts of rubber.....	KG	0.20 (plus surtax of	0.20 200% of duty)	13,361
1139	Wood pulp.....	KG	0.02	0.02	—
ex 1151	Douglas fir, spruce, beech, poplar, squared in beams, planks, and sawn in boards and laths.....	sq. metre	0.17	0.17*	274,286
ex 1151	White pine, yellow pine, red pine and pitch pine, as above.....	sq. metre	0.22	0.22*	—
1248	Mechanical wood pulp.....	KG		0.02	—
1249	Chemical wood pulp, bleached.....	KG	0.04	0.04	—
1250	Chemical wood pulp, unbleached.....	KG	0.03	0.03	24,714
1261	Newsprint.....		Free	Free	359,809

Concessions by PERU on Principal Items
of Interest to Canada—*Continued*

Item No.	Brief Description	Unit	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Peru
			(Sole)	(Sole)	1949 \$
1296	Cigarette paper.....	KG	1.50	1.00	—
1303	Transparent paper called "Cellophane".....	KG	2.00	1.80	—
ex 1410	Calf skins, whether or not dyed or varnished.....	KL	20.00	20.00	31,942
1532	Artificial silk fabrics, up to 40 grams per sq. metre.....	KL	180.00	162.00	—
1533	Same, over 40 grams.....	KL	110.00	110.00	—
1686	Oilcloth for table covers.....	KG	2.00	2.00	—
2279	Grinding wheels, natural or artificial.....	KG	0.20	0.20	415
2283	Asbestos sheets, plates, etc.....	KG	0.15	0.15	738
2337	Ferro-alloys, in raw state.....	KG	0.06	0.06	4,424
2344	Steel bars for mining drills.....	KG	0.05	0.05	41,599
2345	Bars of iron or steel alloys.....	KG	0.18	0.18	
2346	Bars of iron or steel, rectangular, for tools and springs.....	KG	0.08	0.08	
2350	Iron or steel wire.....	KG	0.06	0.06	
2377	Iron or steel tubes for manufacture of bedsteads.....	KG	0.10	0.08	92,055
2379	Pipes iron or steel, including unions up to 2 inches interior diameter.....	KG	0.15	0.10	
2379A	Same, over 2 inches.....	KG	0.08	0.08	
2391	Copper wire, bare, over $\frac{1}{2}$ mm in diameter.....	KG	0.60	0.30	
2392	Cables and cordage of copper wire.....	KG	0.40	0.40	65,493
2402	Copper tubing, with walls 1 mm or more in thickness.....	KG	0.70	0.70	11,557
2409	Aluminum plates or sheets over $\frac{1}{2}$ mm in thickness.....	KG	0.60	0.60	—
2410	Aluminum bars, rods and wire.....	KG	0.90	0.80	—
2411	Aluminum powder.....	KG	1.50	1.50	n.s.s.
2423	Zinc sheets, bands, strips up to $\frac{1}{2}$ mm in thickness.....	KG	0.30	0.30	13,387 (zinc manufactures)
2424	Same, more than $\frac{1}{2}$ mm.....	KG	0.20	0.20	
2456	Iron or steel wire cloth.....	KG	0.05	0.05	3,488
2462	Nails and brads of iron or steel, up to 15 mm long.....	KG	0.60	0.60	9,370
2463	Same, 15-25 mm long.....	KG	0.40	0.40	
2466	Nails and brads, upholsters.....	KG	2.50	2.00	
2467	Horse shoe nails.....	KG	0.30	0.30	

Concessions by PERU on Principal Items
of Interest to Canada—*Continued*

Item No.	Brief Description	Unit	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Peru
			(Soles)	(Soles)	1949 \$
2547	Tools and instruments, n.s.m. for arts and crafts.....	KG	0.60	0.60	17,400
2707	Aluminum household articles.....	KG	5.00	5.00	—
2716	Aluminum furniture.....	KG	6.00	4.00	22,760 (aluminum mfg. n.o.p.)
2741	Lamps, non-electric.....	KG	1.20	1.20	15,554
2773	Animal-drawn ploughs.....		Free	Free	
2774	Agricultural machines for preparation of soil.....	KG	0.02	0.02	112,004
2775	Agricultural machines for harvesting and threshing.....	KG	0.02	0.02	
2791	Electric refrigerators.....	KG	0.80	0.80	40
2792	Same, with porcelain or faience exterior..	KG	1.20	1.00	
2796	Washing machines, floor polishers and other cleaning machines.....	KG	0.60	0.60	1,621
2822	Metal working machines.....	KG	0.08	0.08	1,560
2823	Wood working machines.....	KG	0.08	0.08	5,236
2827	Mining machinery.....	KG	0.02	0.02	142,715
2828	Oil well drilling machinery.....	KG	0.02	0.02	
2855	Electric motors over 50 H.P.....	KG	0.04	0.04	22,307
2856	Same, 25-50 H.P.....	KG	0.06	0.06	
2857	Same, 1-25 H.P.....	KG	0.10	0.10	
2858	Same, $\frac{1}{4}$ -1 H.P.....	KG	0.60	0.60	3,088
2867	Accumulators for miners.....	KG	0.25	0.25	
2868	Dry cells.....	KG	0.60	0.60	
2869	Accumulators, with lead plates, weighing up to 30 kgs.....	KG	0.80	0.80	3,088
2870	Same, over 30 kgs.....	KG	0.20	0.20	
2871	Plates, boxes and separators for accumulators.....	KG	0.40	0.40	2,624
2883	Telephone apparatus.....	KG	6.00	6.00	
2886	Radio and television receiving apparatus.	KG	5.00	4.00	890
2891	Copper wire and cable, up to 3 mm in diameter of metallic section, covered except with lead or silk.....	KG	0.80	0.80	See item 2392
2892	Same, lead covered.....	KG	0.20	0.20	
2893	Copper wire and cable, over 3 mm in diameter of metallic section, covered except with lead or silk.....	KG	0.20	0.20	
2894	Same, lead covered.....	KG	0.12	0.12	

Concessions by PERU on Principal Items
of Interest to Canada—*Concluded*

Item No.	Brief Description	Unit	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Peru
			(Soles)	(Soles)	1949 \$
2918	Electric meters and parts.....	KG	1.50	1.50	2,231
2939	Electric insulators.....	KG	0.30	0.20	—
2940	Same, for high tension lines.....	KG	0.15	0.12	—
2956	Agricultural tractors.....	KG	0.02	0.02	10,515
2958/63	Passenger automobiles.....	ad val.	4% to 12%	4% to 12%	7,552
2965	Trucks.....	KG	0.05	0.05	—
2975	Automobile parts.....	KG	0.60	0.50	34,701
ex 3034	Certified seed potatoes.....		Free	Free	—
3103	Spectacles and sun-glasses, ordinary.....	Doz.	6.00	4.80	2,379
3168	Phonographs, electric.....	KC	11.00	11.00	675
3313	Artificial plastics, in sheets.....	KL	16.00	12.00	6,900
3314	Artificial plastics, in ribbons.....	KL	16.00	12.00	
	Total.....				1,692,813

*Subject to right to increase to 0.24

The Peruvian tariff provides for a surtax on all items including those mentioned above. On most items this tax is 12½% ad valorem and is bound against increase for all items in the Peruvian schedule.

Concessions by the PHILIPPINES on Principal
Items of Interest to Canada

Item No.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	Exports from Canada to the Philippines
				1949 \$
ex 5	Incandescent mantles for lamps.....	25%	15%	n.s.s.
ex 34(c)	Gauze, cloths and screening of iron wire.....	20%	15%	—
ex 47(c)	Insulated copper wire.....	10%	7½%	26,096
(e)	Gauze, cloths and screenings of copper wire.....	20%	15%	—
ex 48(b)	Incandescent lamps of pressure type for liquid fuel of copper or alloys.....	25%	20%	1,041
ex 73(a)	Proprietary and patent medicines with less than 14% alcohol.....	50%	30%	n.s.s.
ex 79(b)	Sugar of milk (lactose) not otherwise provided for	30%	15%	n.s.s.
150	Cigarette paper, printed or not.....	15%	10%	n.s.s.

Concessions by the PHILIPPINES on Principal Items
of Interest to Canada—*Concluded*

Item No.	Brief Description	Pre-Torquay Agreement Rate	Torquay Agreement Rate	Exports from Canada to the Philippines
				1949 \$
ex 155(a)	Douglas fir, pacific coast hemlock, western red cedar, Sitka spruce, white fir and white pine: In logs or poles.....	\$1.50	\$1.00	—
		cu. m.	cu. m.	—
	In boards, sawn, split.....	\$2.00	\$1.50	
		cu. m.	cu. m.	
ex 169(a)	Ordinary live cattle.....	\$7.00 each	\$6.00 each	—
ex 190(c)	Radio apparatus and parts.....	30%	20%	150,709
(b)	Electric lighting fixtures, automatic torches, dry shavers, hot irons, cookers.....	25%	20%	1,992
ex (a)	Dry batteries.....	15%	10%	—
ex 191(a)	Agricultural implements and machinery and parts of iron, steel or wood.....	15%	10%	154,323
195 ex (c)	Parts and accessories (excluding tires) for trucks, passenger cars and buses.....	25%	15%	—
ex 206	Canned ham.....	15%	10%	n.s.s.
212 ex (a)	Canned salmon and herring.....	15%	10%	223,646
ex 216(b)	Wheat flour.....	47¢ 100 kgs.	40¢ 100 kgs.	9,476,382
219	Malted milk, infants foods and similar preparations.....	15%	10%	—
ex 226(a)	Dried peas in bulk.....	\$1.20 100 kgs.	\$0.65 100 kgs.	—
267	Milks and creams, pure or with sufficient sugar to preserve them.....	10%	5%	—
268	Milk powders.....	20%	10%	—
ex 270	Cheese.....	15%	10%	—
ex 317	Barley malt.....	Free	Free	206,413
313	Breeding cattle and horses of recognized breed, duly registered.....	Free	Free	—
	Total.....			10,240,602

Concessions by SWEDEN on Principal Items of Interest to Canada

1 Kr = \$0.20 approx.

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Sweden
		(Crowns)	(Crowns)	1949 \$
ex 15	Cod roe in barrels merely salted, salt-sweetened or smoked.....	Free	Free	—
142 ex 3	Salmon in tins per 100 kg.....	75	50	—
ex 162	Asbestos.....	Free	Free	47,617
ex 203	Silicon carbide (carborundum).....	Free	Free	—
ex 235	Ferric oxide.....	Free	Free	—
ex 312	Fur skins, dressed—muskrat, opossum, raccoon, skunk and squirrel per 100 kg.....	400	400/10% ⁽¹⁾	—
ex 896	Lead, unwrought.....	Free	Free	—
ex 1006	Force feed furnace burners for fuel oil.....	10%	10%	—
1010 ex 2	Wooden separators for storage batteries per 100 kg.....	6	6/10% ⁽¹⁾	—
ex 1068	Spectacles and mounted optical glass, n.s.m. per 100 kg.....	200	200/10% ⁽¹⁾	3,144
1073 ex 1	Electric meters.....	15% not less 2.50 each	10% not less 2.50 each	—
1073 ex 1	Parts of electric meters.....	15%	10%	—
	Total.....			50,761

⁽¹⁾ The specific rate is bound but the right is reserved to substitute an ad valorem duty not in excess of the rate shown.

Concessions by TURKEY on Principal Items of Interest to Canada

Turkish pound = 28 cents

Item No.	Brief Description	Unit	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Turkey
					1949 \$
18-C	Meat, preserved or tinned.....	100 kg.	384.98	150.00	—
71-C	Chemical fertilizers.....		Free	Free	—
ex 218-B	Whisky and gin in bottles.....	100 kg.	615.97	(a) 492.78	16,422
ex 274	Acetylene black.....	100 kg.	20.53	15.00	—
281	Synthetic plastics in powder, etc.....	100 kg.	10.00	10.00	—
284-D	Pit props.....	100 kg.	0.10	0.10	366,391
323-C	Cellulose pulp.....	100 kg.	0.03	0.03	—
445-A	Motor car tires and tubes.....	100 kg.	75.00	75.00	17,139
	Truck and similar tires.....	100 kg.	50.00	50.00	40,977
569	Aluminum:				
	Plates and slabs.....	100 kg.	10.00	10.00	—
	Shapes, bars and sheets.....	100 kg.	30.00	30.00	—
	Wire and corrugated sheets.....	100 kg.	50.00	50.00	—
	Foil.....	100 kg.	100.00	100.00	—
570	Lead ingot and other forms.....	100 kg.	19.25	15.00	—
574-B	Zinc ingot.....	100 kg.	0.26	0.26	—
ex 598	Taximeters.....	kg.	1.03	1.03	—
ex 619	Radio receivers.....	100 kg.	1,283.27	320.82	—
	Parts of radio receivers.....	100 kg.	320.82	320.82	—
650	Tractors.....	100 kg.	2.05	2.05	—
664	Agricultural implements(b).....	ad val.	10%	Free/10%	3,121,530
667-A	Passenger autos weighing:(c)				
	900 to 1,300 kg.....	100 kg.	35.93	35.93	744,419
	1,300 to 1,500 kg.....	100 kg.	46.00	40.00	
	1,500 to 1,750 kg.....	100 kg.	46.20	46.20	
	1,750 to 2,000 kg.....	100 kg.	179.66	179.66	
	2,000 kg. or more.....	100 kg.	256.65	256.65	
667-B	Chassis of all kinds weighing:				
	750 to 1,100 kg.....	100 kg.	8.40	8.00	744,419
	1,100 to 1,500 kg.....	100 kg.	25.50	10.00	
	1,500 to 1,750 kg.....	100 kg.	50.40	40.00	
	1,750 kg. or more.....	100 kg.	72.00	60.00	
ex 718-D	Calcium carbide.....	100 kg.	3.85	3.50	—
	Total.....				4,296,878

(a) To be brought into effect later.

(b) Turkish Government reserves right to re-impose a duty not over 10/ ad val.

(c) Turkish Government reserves right to substitute a duty not over 20/ ad val.

Concessions by the UNION OF SOUTH AFRICA on Principal
Items of Interest to Canada

Item No.	Brief Description	Pre-Torquay Rate	Torquay Agreement Rate	Canadian Exports to South Africa
				1949 \$
15 ex (b)	Barley			
	(ii) malted.....per 100 lbs.	4s.	2s.	107,994
	plus a suspended duty.....per 100 lbs.	1s.	1s.	
	(not in force)			
67	Furs			
	(a) Fur skins			
	(i) raw, cleaned and dried but otherwise unmanufactured.....ad val.	5%	Free	10,500
	(iv) shaped pieces, known as 'sacs', 'plates' and 'crosses', not otherwise worked up.....ad val.	—	20%	
113 ex (5)	Lawn mowers.....ad val.	15%	10%	N.S.S.
116 ex (f)	Parts of incandescent lamps for liquid fuel (oil), of pressure type.....ad val.	5%	5%	N.S.S.
129(c)	(i) Motor car parts for the building and equipment in the Union of motor cars imported unassembled.....per 100 lbs.	9s. 6d.	9s. 6d.	1,679,824
	(ii) Other.....per 100 lbs.	£1. 3s.	£1. 3s.	
266	Casks, wooden, not elsewhere enumerated, empty or in staves.....ad val.	20%	15%	—
279	Wood:			
	(b) Ceiling and flooring boards, planed, tongued and grooved; and parquet and laminated flooring.....ad val.	3%	3%	N.S.S.
	Plus a suspended duty of.....ad val.	17%	7%	—
307 ex (2)	Fish hooks.....ad val.	10%	5%	N.S.S.
ex 335	Sausage casings, n.e.e.....ad val.	10%	5%	7,437
ex 335	Synthetic and rayon staple fibre.....	10%	Free	N.S.S.
	Total.....			1,805,755

Concessions by URUGUAY on Principal Items
of Interest to Canada

Peso = 55 cents

Item No.	Brief Description	Aforo (official valuation)	Pre-Torquay Rate	Torquay Agreement Rate	Exports from Canada to Uruguay
					1949 \$
X-420	Cigarette paper.....	0.52 peso kg.	78%	52%	N.S.S.
X-423-3020	Paper pulp boards for construction.....	0.13 peso kg.	78%	52%	—
XV-727-123	Horse-shoe nails.....	0.455 peso kg.	103.5%	69%	—
XV-748-364	Straight saw blades, over 18 cms. long.....	1.04 peso kg.	78%	52%	2,730
XVI-834-138	Plows of iron.....	9.50 peso ea.	13.5%	13.5%	60,090
XVI-834-141	Sulky plows with one share.		Free	Free	
	Total.....				62,820

Doc
Banking and Commerce
in Committee (June 7, 1951)
SESSION 1951

HOUSE OF COMMONS

(A1X13)
-B11
STANDING COMMITTEE

ON

BANKING AND COMMERCE

CHAIRMAN—MR. HUGHES CLEAVER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

TORQUAY NEGOTIATIONS

THURSDAY, JUNE 7, 1951

WITNESSES

Mr. H. B. McKinnon, Chairman, Canadian Tariff Board;

Mr. W. J. Callaghan, Commissioner of Tariff, Department of Finance.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1951

MINUTES OF PROCEEDINGS

THURSDAY, June 7, 1951.

The Standing Committee on Banking and Commerce met at 4.00 o'clock p.m. Mr. Cleaver, Chairman, presided.

Members present: Ashbourne, Balcom, Blackmore, Cannon, Coté (*St. Jean-Iberville-Napierville*), Crestohl, Dumas, Fulford, Fulton, Gour (*Russell*), Laing, Leduc, Macdonnell (*Greenwood*), Richard (*Ottawa East*), Sinclair, Smith (*Moose Mountain*), Stewart (*Winnipeg North*), Welbourn.

In attendance: Mr. Hector B. McKinnon, Chairman of Tariff Board; Mr. W. J. Callaghan, Commissioner of Tariff, Department of Finance; Dr. C. M. Isbister, Director, International Trade Relations Branch, Department of Trade and Commerce; Dr. E. A. Richards, Principal Economist, Department of Agriculture.

The Committee continued with a page by page study of the document entitled: "Statement showing the British Preferential and Most-Favoured-Nation Rates of duty in effect prior to and after the Torquay Tariff negotiations and the total imports from all countries during the calendar year 1949 of the products listed in Schedule V to the Torquay Trade Agreement." (*See Appendix B of Minutes of Proceeding sand Evidence, No. 2, Wednesday, May 30, 1951*).

Mr. Callaghan and Mr. McKinnon were questioned.

At 4.30 o'clock the Vice-chairman, Mr. Cannon, took the Chair.

Study of pages 23 to 67 was completed.

At 5.55 o'clock p.m. with the Chairman, Mr. Cleaver, again in the Chair the Committee adjourned to meet again at 4.00 o'clock p.m., Monday, June 11, 1951.

R. J. GRATRIX,
Clerk of the Committee.

EVIDENCE

HOUSE OF COMMONS, June 7, 1951.

Mr. W. J. Callaghan, Commissioner of Tariff, called:

The CHAIRMAN: Gentlemen, we have a quorum. We had completed our studies up to and including page 22 of appendix B of our second meeting. We are now at page 23, containing tariff items number 352 to 361. Are there any questions as to the items on page 23? Or page 24?

By Mr. Laing:

Q. What about item 367? Does that deal with this matter which was in the House the other day?—A. No. It has no connection with it. This item covers watch cases and parts, finished or unfinished on which the tariff was reduced from 25 to 22½ per cent.

Q. That is a lot of money.—A. The imports are quite large.

Mr. CRESTOHL: Would these items fall under the heading of gold, if the watch cases were made of gold or silver?

The WITNESS: I do not think so. There is no n.o.p. in this item and covers all watch cases and parts thereof.

Mr. MACDONNELL: Where do we get the complete watches?

The WITNESS: They are provided for in another item.

The CHAIRMAN: Are there any further questions on page 24? Or page 25?

Agreed.

Now, page 26.

Mr. MACDONNELL: I was absent yesterday, Mr. Chairman. Are we going at any stage to have a figure as to what is expected to be the result in terms of trade of the changes made? We have here figures for 1949 imports from all countries.

The CHAIRMAN: We had a general statement from Mr. McKinnon about two meetings ago; and at that time Mr. Callaghan briefly indicated that as to exports a reasonably accurate forecast could be made, but as to imports, it was rather obvious that you could not make any forecast based upon past performance, because as to some of those items, you see, the tariff wall was so high that we had no imports.

Page 26? Or page 27?

Mr. MACDONNELL: I notice a wide range in item 386 particularly.

Mr. SMITH (*Moose Mountain*): What item is that?

The CHAIRMAN: Item 386 on page 26.

By Mr. Macdonnell:

Q. Did you have any objection to that item being free?—A. That item has been free under all tariffs for some years. There is really no change there. This item was in the Geneva Trade Agreement and it was widened in the budget a couple of years ago to include saddles; we have carried it forward in the new agreement, in the new wording.

Q. Do we manufacture that material in Canada?—A. Some of it, yes.

Q. But there is no objection?—A. No, there is no objection.

The CHAIRMAN: Are there any further questions on page 26?

Mr. McKINNON: I think that item has been on the free list for at least twenty to twenty-five years.

The CHAIRMAN: Page 27?

By Mr. Fulton:

Q. Why is item 391 included here? There does not appear to me to be any change made?—A. It is just a binding of the free entry. It has been free and now it is bound free for another three years.

The CHAIRMAN: Are there any further questions on page 27? Or page 28?

Mr. FULTON: Who is the chief beneficiary of the changes here? There is a change of 5 per cent in one place.

The CHAIRMAN: Wire fences?

Mr. FULTON: Yes, under "f".

The WITNESS: Under "f" the United States is the chief beneficiary. The reduction was in connection with item 401 (f).

Mr. MACDONNELL: (g) In other words (g) is another item put in for the purpose of binding it again, as you have said.

The WITNESS: Yes, that is correct.

Mr. LAING: In the situation of our very keen shortage of steel products of all kinds, why was not a greater reduction made to encourage more imports in those lines? Has it any relation to other commitments?

Mr. McKINNON: Your question, Mr. Laing, is a very general one. Were you thinking in terms of the primary products of iron and steel, that is, everything up to the rolling mill stage, or further, up to the fabricated iron and steel?

Mr. LAING: Let us say all lines. Take for example fox fencing; you cannot obtain it.

Mr. McKINNON: Fox fencing would not be covered by this item. There is a special item for it in the tariff.

Mr. LAING: Then would other fencing be included here?

Mr. McKINNON: On all primary forms of iron and steel our duties which are in very great measure specific duties at so much a ton, or so much one hundred weight, have been in existence for a great many years without being changed; and as prices have risen per ton the ad valorem equivalent of the duties has declined. The present equivalent of these specific duties is a very small figure. In fact if you take all the primary forms of iron and steel—the ingot, the bloom, the bar, the sheet, the strip, and the plate which takes us pretty well through the rolling mill—if you take all these together and consider them relative to the competition from our chief competitor, which is the United States, I doubt if our protection for the basic iron and steel industry is over 10 per cent at the most on some of these lines. In fact, on some of them, it would be as low as 8 or even 7 per cent. We felt there was no need to give further concessions on these products because the rates are very low.

Mr. LAING: Are any of these items subject to drawbacks?

Mr. McKINNON: There are quite a number of drawbacks for special purposes, which again serve to reduce the effective rates further.

Mr. FULTON: Consider barbed wire fencing. For a number of years I have had complaints both as to the availability and the quality of barbed wire, particularly since the war, for ranching purposes; and yet there is not a very high duty on it coming in from these favoured nation countries. Moreover,

it is free under the British preferential tariff. We would appear to bring in but a very small amount of imports of that commodity. Why is that? Is it a question of availability or because our farmers do not know that there is a low tariff on it?

Mr. McKINNON: The historical aspect of it is that barbed wire for farm fencing purposes has been at a very low rate for two or three decades. As you say, the rate is only 10 per cent. We import very little. I think this must be due to the availability from Canadian production. There was a time in the thirties when we got quite a bit of barbed wire from Holland. But apart from that episode, I do not recall in my lifetime in the service any important imports of barbed wire.

Mr. FULTON: Would you assume from that that the price in the United States or in other countries plus the freight to Canada would make it increasingly attractive at this moment?

Mr. McKINNON: I think there has been a very definite effort on the part of the Canadian industry producing barbed wire to give every possible advantage to the consumer in this country.

Mr. SMITH (*Moose Mountain*): I imported barbed wire last year and I paid the duty on it. I brought it in from the States. It cost a lot more than what I could get it for here, but it was easier to get good wire there than here. During the war they quit making good wire here. I do not know why. But I think it became available again this spring.

Mr. MACDONNELL: Items 427 and 427a: I notice a large amount is involved.

The CHAIRMAN: Will you excuse me? May I call pages 28 and 29?

Mr. HELME: Is the United States the chief beneficiary under item 410a?

The WITNESS: Yes. The imports under this item are almost wholly from the United States.

Mr. MACDONNELL: The question about diesel products was brought up in the House by Mr. Wright. Was it not dealt with?

The WITNESS: Item 410a was established in its present form in the budget of 1948. These trucks were formerly classified as motor vehicles under item 438a. At that time the tariff was reduced from $17\frac{1}{2}$ per cent to 10 per cent. We widened the item a little at Torquay and reduced the rate from 10 per cent to $7\frac{1}{2}$ per cent.

The widening took place at the end of the item to permit the use of these trucks in Newfoundland for hauling material which was formerly transported by the railway for a distance of three or four miles. These trucks are off the highway trucks. They are not allowed on the highway.

Mr. FULTON: I see. They must be large trucks. Nine and one-half yards capacity would make it a pretty big truck.

The WITNESS: Yes.

Mr. FULTON: There is only that one type?

Mr. McKINNON: That is right. They are off the highway trucks which heretofore have not been made in Canada in commercial quantities.

Mr. STEWART: What about items 422 and 423?

The CHAIRMAN: Are there any further questions on page 29? What was your question, Mr. Macdonnell?

Mr. MACDONNELL: I shall wait.

Mr. STEWART: In one case it is greater than in the other. Fire engines and road rollers are both pieces of equipment used almost exclusively, I would imagine, by municipalities or in some cases by provinces. Why is the rate of duty so high? Is it because they are manufactured in Canada and this is to be a protective tariff?

The WITNESS: They are produced by several firms in Canada. The United Kingdom has had for many years duty free entry as against a margin of preference of 25 per cent. The United Kingdom negotiators reluctantly agreed at Torquay to reduce the margin to 20 per cent. I am referring to item 422 in particular.

Mr. McKINNON: On that particular item of road rollers, bearing in mind what you said, that they are largely purchased and used by municipalities, our inclination would have been to go farther in the reduction; but the United Kingdom has, in the last three years opened up one or two outlets in Canada. They have established what they claim to be a very good connection and they have done a considerable amount of advertising. Consequently they prized this item so highly that they made very definite recommendations to us, or suggestions, that we should not reduce their margin any further. So, chiefly on that ground, we stopped at 20 p.c. because the British expressed their interest in maintaining their margin of preferential advantage.

Mr. STEWART: Are these figures of imports mostly British imports?

The WITNESS: The imports of street and road rollers and parts thereof come from all countries. In 1949 they amounted to about \$311,000, of which the United States supplied \$196,000 worth and the United Kingdom \$115,000 worth.

Mr. McKINNON: So it is about two-thirds and one-third.

Mr. STEWART: Yes; and it is the same situation with respect to item 424?

The WITNESS: No. The total imports under item 424 of fire engines and other fire extinguishing machines or equipment amounted to about \$264,000 of which \$262,500 worth came from the United States and \$1,400 came from the United Kingdom.

Mr. STEWART: Can you tell us why we have to pay so much difference to the United Kingdom on this matter if we are importing practically 100 per cent of these items from the United States? Surely we could give our municipalities every benefit there is. The British competition seems to be non-recurring.

Mr. McKINNON: My comment was directed entirely to the first item—road rollers.

Mr. STEWART: I am sorry.

Mr. McKINNON: The other one is entirely a matter of domestic protection.

The WITNESS: Yes, and some United Kingdom interests too.

Mr. FULTON: On 427 and 427a where you gave a not very substantial reduction, I see we have a considerable volume of imports. Does the same general situation apply here, Mr. McKinnon? You have a considerable British preference there?

Mr. McKINNON: Yes.

Mr. FULTON: How does the production compare with the States on imports of machinery from Canada?

Mr. McKINNON: It is not significant on this. There is considerable interest but not comparable with that of the United States.

The WITNESS: Roughly the imports under these items 427 and 427a in 1949 amounted to \$110 million, of which \$104,500,000 came from the United States and \$4,600,000 came from the United Kingdom.

Mr. McKINNON: So you see it just depends whether you consider \$4½ million of imports important or not. It is in the absolute sense, but not relative to the total imports; they are almost entirely from the United States.

Mr. FULTON: Well, just so that we can get the revenue significance of this, can you from your book give us a breakdown between 427 and 427a. I see that 427a applies to those not made in Canada.

The WITNESS: The same reduction was made to both items— $2\frac{1}{2}$ per cent. The figures I have already given apply to both items. They are not recorded under separate headings in the statistics, but on various occasions we have looked into the matter and have found the imports are almost 50-50 under both items.

Mr. MACDONNELL: You have this very large importation from the United States—I think you said \$106 million as compared with \$4 million, yet you have made a change in the British preference—you reduced it by $2\frac{1}{2}$ per cent there. I can understand why they called you “ $2\frac{1}{2}$ per cent Callaghan”. There are a number of changes of that kind, and this seems to me to be a good illustration. What would be the reason though? Were the British not keen on this, or are they not in this kind of business in a big way?

The WITNESS: They are. They did not like the reduction but they did not object too strenuously to it because they realized if we reduced the British preferential tariff on item 427 by $2\frac{1}{2}$ per cent it nullified to a great extent the value of the reduction to the United States. They preferred to take a reduction on this item in order to retain their margin on other items.

Mr. MCKINNON: I think they thought too that if in the final analysis they paid 10 per cent on the one item and the United States paid $22\frac{1}{2}$ per cent, they still would have a pretty fair margin. On the other, their goods enter free and the United States pays $7\frac{1}{2}$ per cent.

Mr. MACDONNELL: You are speaking of 427?

Mr. MCKINNON: Yes.

Mr. MACDONNELL: I was thinking that the United States has 95 per cent of the market now and on the face of it it seems odd that you are assisting the United States to get still more of the market. I suppose the answer is that the British had other things they were getting?

Mr. MCKINNON: These are two basket items: machinery n.o.p., (a) of a class or kind made in Canada and (b) not of a class or kind made in Canada. The British concentrated their fire, if I may put it that way, on such specifically named items as street and road rollers. They did put pressure on the two basket items but in the end they probably felt they were being left with a pretty fair margin of preference—10 per cent as against $22\frac{1}{2}$ per cent is a very considerable margin of preference.

Mr. FULTON: Perhaps your figures which are for 1949 would not reflect the results of the British export drive? I mean they are concentrating more and more in Canada. Do you know whether in 1950 they secured a larger share of this particular trade?

Mr. MCKINNON: We have not the 1950 statistics here. I have doubt whether Mr. Callaghan has that either because we had to use the 1949 figures at Torquay. That was the last complete year as we were negotiating in 1950.

Mr. FULTON: I was not thinking of the statistics so much as what you have seen recently. Is their share of the market going up?

Mr. MCKINNON: Their share of the market has been going up and they appear lately to have been concentrating on particular products such as machine tools of all kinds. Then, they had a few particular favourites like street and road rollers, where they claimed they were doing a lot of promotional work and wanted to control their trade and to conserve it. I may say that on the other items we did the best we could to meet their situation and not destroy their preference in the market.

Mr. MACDONNELL: I assume it would be natural, when we have gone over these details, to discuss the broad question of trend or direction.

The CHAIRMAN: I have asked Mr. McKinnon to be ready to make a general statement on that but I thought we would conclude our detailed work first. Are there any further questions on page 30? If not, we will go on to page 31.

Mr. BALCOM: In connection with 429(c) and (d) the British would be the beneficiaries there.

Mr. WHITE: To a very large extent.

Mr. MCKINNON: On sub-items (c) and (d) we were not negotiating with the United Kingdom. The concession in those two cases is given to Germany. You will notice the British preferential rate on both of those sub-items is free.

Mr. LAING: I think 427f is worthy of note because there is a reduction on machines for the manufacture of plywood, which is complementary to the market.

Mr. MCKINNON: We thought it would further assist the plywood industry to secure markets abroad—in addition to getting a reduction from the United States on plywood—if they got some concession on plywood making machines.

Mr. LAING: Almost all of it goes to the United States.

Mr. MCKINNON: Almost entirely.

Mr. FULTON: Do we not also manufacture a lot of it in Canada?

The WITNESS: A considerable amount of this machinery is made in Canada. Some of these are important but on the whole the item may be regarded as of a class or kind not made in Canada—particularly the machines for which provision was made a couple of years ago in this item. We reduced this item to keep it in line with the general item on machinery which was reduced from 10 per cent to $7\frac{1}{2}$ per cent.

Mr. STEWART: Does a reduction in item 429 benefit Denmark and Sweden, or who are the beneficiaries there? I refer to cutlery of iron or steel?

The WITNESS: A concession on this item was strongly urged by Germany. They are very anxious to get back in the Canadian market and to secure some of the trade they enjoyed during 1932 and previous years.

Mr. STEWART: One reason for me asking is that there are a lot of people interested in cutlery such as Jenson Steel and others. There is a type from Denmark which is almost as expensive as silver plate. Is that kind of cutlery made in Canada at all?

Mr. MCKINNON: No. The Danes expressed considerable interest in this concession when they realized Germany had got a reduction on those items—they get it automatically under the most favoured nation clause.

Mr. STEWART: Why then is there a tariff, in view of the fact that there is literally no production in Canada?

Mr. MCKINNON: Well, that gets us back again to the situation which existed in 1947, when the United Kingdom had what we call a bound margin of preference on several hundred items. Those were included in the terms on which the margins of preference were bound—which meant that Canada was not free to make a reduction in favour of any other country. As you know, sir, by an exchange of notes in 1947, Canada and the United Kingdom agreed that these should no longer be contractually bound margins, but available for negotiation. Nevertheless, every time we have contemplated a reduction in favour of a foreign country on that type of cutlery the United Kingdom, naturally, has expressed very strong disapproval in the interests of the Sheffield cutlery people. Nevertheless, to use the same word again, we did make reductions at Geneva and here again there are two small reductions. It still leaves Sheffield a substantial margin of preference.

Mr. FULTON: Not so much there— $7\frac{1}{2}$ per cent—but more in the others.

Mr. McKINNON: The first one is not finished cutlery. It is what we call a blank for making cutlery and therefore it carries a pretty low rate. It is only a semi processed blank for making cutlery. There is a pretty fair margin on finished cutlery.

(Mr. Cannon took the chair.)

The VICE-CHAIRMAN: Is page 31 accepted?

Page 32, item 431b to 431h.

Mr. DUMAS: Have the items in 431h always entered this country free?

The WITNESS: This is an entirely new item, established in 1948.

Mr. McKINNON: You will notice, sir, they are all described as of a class or kind not made in Canada.

Mr. DUMAS: None of those here?

Mr. McKINNON: None are made in Canada.

Mr. DUMAS: Are any assembled here?

Mr. McKINNON: That would get down to the interpretation by customs; when is a man deemed to be "manufacturing".

Mr. DUMAS: I think the Sparks Company have been making some in Toronto in the past—although they may not be making them now.

Mr. McKINNON: Once a manufacturer in Canada manufactures any of those items to the point where the customs authorities regard him as being a bona fide manufacturer, then the products come out of the item. They can only get free entry as long as they are of a class or kind deemed not to be made in Canada.

Mr. DUMAS: In 1949 where did these imports come from? From the United States?

Mr. McKINNON: They would be almost entirely from the United States.

The WITNESS: We imported, under 431h, \$2 million worth of goods from all countries. The United States supplied \$1,750,000; the United Kingdom \$180,000; Switzerland \$51,000; Germany \$35,000.

Mr. FULTON: Can you give us the same figures for 431b?

Mr. McKINNON: Those are hand tools—adzes, and so on.

Mr. FULTON: Yes?

Mr. McKINNON: That is a very big item and you will see that it is pretty well distributed.

The WITNESS: The total imports in 1949 under 431b amounted to over \$5 million of which \$4,141,000 came from the United States; the United Kingdom supplied \$547,000; Sweden supplied \$304,000; and Germany supplied \$28,000.

Mr. FULTON: In this whole class of item here, and on the preceding pages and on the next page, I would judge by looking at it that the same general situation prevails, as Mr. McKinnon described, where the British were rather reluctant and you kept the concessions in favour of other countries fairly small?

Mr. McKINNON: That is true; I am bound to say that while we were free as a matter of contractual arrangement to make any reduction we wished, nevertheless where the British negotiators put special emphasis on a particular item or a particular kind of commodity, we did our very best to respect their wishes in that regard.

Mr. FULTON: Did the United States attach particular significance to this group of items?

Mr. McKINNON: Yes, in this group of items their trade is very large and the margins of preference were pretty substantial.

The VICE-CHAIRMAN: Is page 31 accepted? If so we will go to page 33, items 434c and 434d.

Mr. STEWART: Is the story the same for 434c, the British wishing as great a preference as possible?

The WITNESS: No, this is a special item established some years ago to provide for the entry of noiseless street car trucks for the Toronto Transportation Company at 10 per cent. The item was used extensively three or four years ago and it is now being used again. These noiseless street car trucks are not made in Canada and the United States was very glad to get a reduction from 10 per cent to 7½ per cent on this item, due to the volume of trade.

Mr. STEWART: If there is no competition in this country at all, does it not appear once more that the municipalities are paying a tariff on something where they might well save some money?

Mr. McKINNON: That is true. When we negotiated with the United States in 1935—I am speaking from memory but my memory, I think, is right—these trucks were 25 per cent. They are very heavy, large rubber-mounted street car trucks such as are used in Toronto. We reduced the rate then from 25 per cent to 10 per cent; now it has been reduced from 10 per cent to 7½ per cent. It is not a matter of protection. I think the government felt, after making the reduction in 1935, that it was the type of item on which the government might get some revenue, and at 7½ per cent you can call it a revenue duty. But there is not much protective interest in it—and there was no United Kingdom interest at all.

Mr. MACDONNELL: Where was Mr. Callaghan? He would not have made that reduction.

Mr. BALCOM: This might not necessarily benefit only municipalities. It might benefit private companies?

Mr. McKINNON: Yes.

The VICE-CHAIRMAN: Is page 33 accepted? If so we will go to pages 34 and 35—item 438b.

Mr. McKINNON: I suggest it might be easier for Mr. Callaghan to give an explanation if the committee would regard all of the pages starting with page 34, to the end of the automobile schedule—which is to the end of page 44—as one set of pages. The items are all practically as they stand in the tariff today, and all are relative to automobile parts; and from the point of view of explanation they might be considered as if they were one item which is in effect what they are. The basic item is broken down into a number of subdivisions, each subdivision of which is very large as you will see. Some cover a page or two.

The VICE-CHAIRMAN: If it is the wish of the committee we will take this item 438b to 438i now?

Mr. McKINNON: That would permit Mr. Callaghan to make one statement on automobile parts.

The WITNESS: First of all I should mention these items were discussed for a year or more by the two interested groups—the automobile manufacturers and the automobile part manufacturers, who are branches of the Canadian Manufacturers' Association. After many meetings they agreed to the items as they stand today and suggested the reductions that were made at Torquay.

The items as they appear have the approval of both groups. It is quite clear the automobile manufacturers like to get their parts at as low a rate as possible and the parts manufacturers like to have as high a protection as possible. The items were widened to a certain extent to provide for replacement parts and in the case of 438b the ceiling on all parts named in that item—and by ceiling I mean the top rate when of a class or kind made in Canada—was 25 per cent, 27 per cent, and 30 per cent. It was agreed that the rate on all those parts when of a class or kind made in Canada could be reduced to 17½ per cent, the same rate that applies to the finished automobile.

Mr. MACDONNELL: On page 35 what is the significance of the free rate under the m.f.n. tariff—25 per cent, 27 per cent, and 30 per cent?

The WITNESS: 25 per cent was the rate that applied under item 438e when of iron or steel; 27 per cent was the rate applied if an automobile part was of brass; 30 per cent is the rate that applied when they were of other materials.

Mr. McKINNON: That is to say, they entered under various items at varying rates and now they have been consolidated at the one rate of $17\frac{1}{2}$ per cent, which is the rate that applies on the finished car.

Mr. GOUR: That is good work.

The WITNESS: The same thing applies on item 438d. It is a reduction to provide for replacement parts on the same basis as repair parts. The former rates were either 25 per cent, 27 per cent or 30 per cent. If you check the statistics you will find the average rate paid on imports under item 438e (3) was almost 28 per cent. The imports were valued at almost \$60 million in 1949.

Mr. MACDONNELL: How are those imports broken down by countries?

Mr. McKINNON: You will find they are almost entirely from the United States.

The WITNESS: Really there are only two countries involved—the United Kingdom and the United States.

Mr. McKINNON: But under all these items, imports are free from the United Kingdom.

The WITNESS: The imports under 438b were \$9,267,000 of which \$9,201,000 came from the United States and the remainder, \$66,000, came from the United Kingdom.

Mr. MACDONNELL: Perhaps you could take the total item of \$59 million and just deal with that?

The WITNESS: 438e is the basket item covering automobile parts not mentioned in any of the ten pages of items now under consideration. Under this item total imports were nearly \$60 million, of which \$58,306,000 came from the United States and \$1,498,000 came from the United Kingdom.

Mr. FULTON: Which item was that?

The WITNESS: 438e.

Mr. GOUR: The preference for the British market is still 25 per cent?

Mr. McKINNON: Yes, on that item there is still a very substantial difference—between “free” and 25 per cent.

Mr. FULTON: On page 38 you have five sub-items. Am I right in assuming the effect of those five items—1, 2, 3, 4 and 5, starting on page 38—is to give a preference to the article wherever it may actually come from in finished form if more than 40 per cent of its components come from the commonwealth? Is that the effect?

The WITNESS: In one sense yes. I might briefly explain item 438e. There are two pages of parts listed under that item. The ordinary m.f.n. tariff before Torquay was 25 per cent, 27 per cent, or 30 per cent, and now it will be $17\frac{1}{2}$ per cent. That $17\frac{1}{2}$ per cent would apply if you or I import one of those parts. If an automobile manufacturer imports them, and if his production does not exceed 10,000 complete passenger automobiles, and if not less than 40 per cent of the factory cost is incurred in the British commonwealth, he may import these parts duty free.

Mr. McKINNON: He always could.

The WITNESS: There is no change.

Mr. STEWART: The limitation on production pretty well excludes the United States?

The WITNESS: Yes.

Mr. FULTON: If 40 per cent of his factory cost is incurred in the commonwealth he can bring them in free? It applies to his factory cost, and not to the cost of the article he is importing?

Mr. MCKINNON: No, it is his factory cost. If he complies with that commonwealth content he gets free entry of those parts—whether under the British preferential tariff or the intermediate tariff.

The WITNESS: That is the principle. If he exceeds 10,000 but does not exceed 20,000 units a year, and if his British commonwealth content is not less than 50 per cent, he gets his parts free from any country—and so on. That is the principle.

Mr. FULTON: Was that one of the things which was worked out in 1932?

Mr. MCKINNON: No.

Mr. FULTON: So that exporters from Canada could not get the benefit of British preference?

The WITNESS: No, it was worked out later than that—about 1935, I think. About the year 1935 the Minister of Finance referred the automotive industry to the Tariff Board for investigation and reports. The Board reported, submitted an interim report and a further report, and as a result of the hearings before the Tariff Board in the years 1936, 1937 and 1938, we arrived at the present tariff setup.

Mr. MCKINNON: I think Mr. Fulton is thinking, Mr. Callaghan, of another content requirement—namely, the content requirement in other parts of the commonwealth which Canadian cars had to achieve before they got preferential treatment. This is purely a domestic commonwealth content, imposed—if you want to use that word—on the Canadian manufacturer of automobiles, whereby the more he increases the commonwealth content in his product the better rate he gets on parts imported from anywhere.

Mr. STEWART: Do the British find that this preference they have on automobiles and parts is of assistance to them? And I am thinking especially of parts?

Mr. MCKINNON: Yes, sir. I speak from memory but my memory is that last year we imported into Canada from Britain under the British preferential tariff something over 80,000 automobiles. If you go back ten years I doubt if we imported in one year over 8,000. They jumped to almost 88,000, and they prize most highly the free entry, not only of the finished automobile but, perhaps even more of the parts; because, as they enlarge their distribution of the finished car in this country they are going to require more in the way of replacement and repair parts, and they will attach probably a higher value still to those.

Mr. STEWART: It is of particular interest to me because I drive a British car. For my car there is an overdrive which, in the United Kingdom, retails at 35 pounds and, allowing for freight, one should imagine that it would retail here for \$130 but the price is \$180. There is a 'gouge' going on somewhere because with such prices they are not in a very competitive position. I do not think that the British are reaping any advantage of the free admission. It is their problem but it is a fact of importance to those of us who own British cars.

Mr. MCKINNON: That is true, but if they are not obtaining the fullest possible participation in this market it is not a tariff problem—because they have completely free entry on the finished car and the parts. Undoubtedly, if

they are going to maintain anything like the distribution they had last year their repair, and replacement services need to be on a comparable basis with their distribution.

Mr. STEWART: I think they will have to do that if they want to hold the market.

Mr. McKINNON: Yes.

Mr. FULTON: Do your remarks there apply to only the low priced cars?

Mr. McKINNON: With respect to tariff? No, they are all entirely free.

The VICE-CHAIRMAN: Are the items on pages 34 to 44 inclusive accepted? Agreed.

Page 45, items 440j to 454a.

Mr. STEWART: Is item 440j, fish hooks, n.o.p., designed to include bait and lures?

The WITNESS: No. This item does not cover fish hooks for commercial fishing. It covers fish hooks commonly called sportsmen's fish hooks.

Mr. STEWART: Used by amateurs like myself?

Mr. McKINNON: That is right—and this is not the item that covers commercial fish hooks. Actually this was a concession to Norway.

Mr. MACDONNELL: 446a is another large import item. Could we have a breakdown by countries?

The WITNESS: Yes. The total imports under 446a in 1949 amounted to \$37,400,000, of which over \$35,000,000 came from the United States. \$1,960,000 came from the United Kingdom.

There were small imports from Belgium, Sweden, Germany, Czechoslovakia, France and Norway.

Mr. BLACKMORE: Could you give us a general reason why we import so few of these items from Britain? Would it be because they do not have the supply over there?

The WITNESS: This is a basket item covering thousands of different articles made of iron or steel that are not otherwise provided for in the tariff. Anything manufactured of iron or steel which is not specifically provided for falls under this item. Many of these items are of United States origin rather than of United Kingdom origin.

Mr. McKINNON: It is a pretty heterogenous field. There is no description for it or any specification.

Mr. CRESTOHL: Would they be gadgets of some kind which are not commonly known?

Mr. McKINNON: I would imagine that if you got a list from the customs authorities showing the number of items which entered under this heading in a given year, it would probably run from around 10,000 to 20,000. Anything which is made of iron or steel but which has not got its own enumeration in the tariff would be included. It is an extremely heterogeneous group of commodities which happen to be made of iron or steel. That may be one reason why there is not greater British participation. Their tendency has been lately to specialize in certain things that they want to make a particular effort to sell. I do not think it could be said that this rate of duty keeps them out. It is 10 per cent.

Mr. MACDONNELL: Do you think it is because in all the little things we are more like the United States than we are like the United Kingdom?

Mr. McKINNON: I would think so. I cannot recall any particular illustration which I could give you. But let us suppose that I am a manufacturer

in the States and I make a particularly attractive paper weight of iron or steel. And let us suppose there is no particular place in the tariff for it to come under. Therefore it would come under this item. As a manufacturer I may put a few thousand dollars worth of it on the market and I may import a few score of thousands worth of it into Canada.

Mr. CRESTOHL: Would it be wholly manufactured of metal, or only partly manufactured of metal?

The WITNESS: Of which iron and steel are both the component parts.

Mr. CRESTOHL: Then it might be partly made of wood and it would still fall under this heading?

Mr. MCKINNON: So long as iron and steel were the component of chief value in it; not of the weight, but of chief value.

Mr. BLACKMORE: Have the departmental experts given some attention to the possibility of these articles being manufactured in Canada in the way of giving protection to the Canadian manufacturer? What about such things as bicycle seats?

Mr. MCKINNON: No. It is very difficult because there are so many things which are enumerated in the tariff. Bicycles and parts have their own items. This is simply a basket item under which the customs authorities can classify anything of iron or steel which is not particularly named. But it has such a varied field that the imports run to nearly \$40 million.

Mr. BLACKMORE: That is why we need to give it special consideration.

Mr. MCKINNON: The matter of protection is not for me to discuss. The rate is still 22½ per cent.

Mr. CRESTOHL: Is it not possible, for example, that you get cameras of which certain types may be listed under a certain heading in the tariff, but because of some modification the department is having difficulty to include them under that particular tariff, so you would have them under this heading?

Mr. MCKINNON: That was quite a good illustration which Mr. Fulton quoted. Suppose you have an item of iron or steel described in the tariff as a kind of item which is not made in Canada. Then, let us suppose that somebody in Canada begins to make it and makes more than 10 per cent of the Canadian requirement. He can then come to the custom authorities and explain what his position is, and if he can establish to their satisfaction that he is manufacturing more than 10 per cent of the Canadian requirement, he can obtain a ruling that the commodity is no longer of a class or kind which is not made in Canada. And then, since it is enumerated in the tariff, it will come into this item.

The WITNESS: Take an article like certain evaporators which are really not machines. They are dutiable under this item.

The VICE-CHAIRMAN: Are there any further questions with respect to page 45? Or page 46? Item 462a down to item 462(ii)?

Mr. STEWART: Under that item is any reference made to the more popular sizes of cameras, such as the four by three and a quarter, or does it just apply to the larger cameras?

The WITNESS: It applies to cameras and parts for making negatives or positives 3½ inches by 4½ inches or larger, but not to small cameras. They have another item in the tariff.

Mr. FULTON: Throughout these three camera items or photographic products, the British enjoy a very substantial preferential margin. It has not been entirely eliminated. I wonder if the witness or Mr. McKinnon would care to comment on it? I notice that the condition of the trade has not appeared to be very large.

Mr. MCKINNON: Under cameras this margin was not very great, but you could describe it as great in some instances. I would like to explain that the

change is in the wording of the item. As the item stands at the moment in the tariff, these cameras are restricted to cameras imported by professional photographers for professional use. But customs found it to be increasingly difficult to define "professional photographer". One man might own a studio and do portrait work; he would be a professional photographer. But could you classify people as professional photographers who used a portable piece of equipment and took a picture of a wedding? The question would arise: Are these people professional photographers? Or are the people employed by newspapers to take pictures professional photographers? They make their living at it. Indeed, it may be that they are on salary. By direction of the Minister of Finance, the Tariff Board held an inquiry at which were present all the manufacturers of these goods in Canada, most of the importers and a very large representation of users. And the result was that this wording was agreed upon, largely for the purpose of getting rid of the reference to "professional photographers" and "commercial use". So the item now simply reads that, as regards these large cameras, these rates apply, no matter who uses them.

Mr. STEWART: Suppose a professional photographer wanted to use a "rolex"? Would he come under this item?

The WITNESS: There is another item in the tariff covering these cameras which was not dealt with at Torquay.

Mr. FULTON: Under paragraph 2 and 3 large pieces of equipment are included but not necessarily for large cameras.

Mr. McKINNON: You will notice that the accessories for cameras might be used by any photographer. So he gets these accessories at a low rate, whether or not he be a professional photographer.

Mr. FULTON: The volume of trade appears to have been only about \$½ million. You have reduced the margin of preference in favour of the United Kingdom or the British market from an average of 12½ to nothing. You have wiped it out.

The WITNESS: Most of the parts coming under sub-items 2 and 3 have already been duty free for many years. The old item was revised, some new parts added and some obsolete ones deleted. The sub-items 2 and 3 are somewhat similar to former item that has been in effect for ten or fifteen years.

Mr. FULTON: There were only a very few new components of No. 2 and 3 subject to a duty of 2½?

The WITNESS: That is right.

Mr. McKINNON: So long as there was only one, Mr. Callaghan felt that he should show that rate.

The WITNESS: You mentioned imports of \$½ million. Actually, the imports amounted to \$488,000 of which \$477,600 came from the United States and \$5,500 came from the United Kingdom.

Mr. CRESTOHL: Would cameras such as the leica come under that heading?

The WITNESS: Item 462, cameras and complete parts thereof, n.o.p. which carries a rate of 17½ per cent if they are of a class or kind not made in Canada, and 20 per cent if of a class or kind made in Canada. I am informed that most of them enter under the heading "not made in Canada", at 17½ per cent.

The VICE-CHAIRMAN: Are the items on page 46 acceptable to the committee? Then page 47, item 470 to item 503.

Mr. MACDONNELL: There we have that large item at the bottom again. What is the breakdown of it?

The WITNESS: It is a binding of free entry. The item has been free for many years, and the free entry was bound to the Philippine Islands.

The VICE-CHAIRMAN: And the imports amounted to \$6,843,503. What are they?

The WITNESS: The imports amounted to \$6,843,503 of which the United States supplied \$6,537,000 worth.

Mr. BALCOM: Under item 482, the regulations prescribed by the minister would have relation, I suppose, to whoever imports these items?

The WITNESS: These words in the regulations "prescribed by the minister" appear in a number of items in the customs tariff. It is very seldom, however, that the Minister of National Revenue actually issues regulations. He has the power to do so if any difficulty arises in the administration of the item.

Mr. McKINNON: Actually, very rarely are regulations issued.

The VICE-CHAIRMAN: Is page 47 acceptable to the committee? Then page 48, from item 503 to 511.

Mr. STEWART: Item 507c; what was supplied? What sort of plywood is okouma?

The WITNESS: It is a particular type of wood grown in French Africa. It is a light brown hard wood.

Mr. STEWART: Why should Canada put up a tariff against that? There is no competition there, is there?

The WITNESS: It would not compete to any great extent with our own plywood. We gave the French the reduction which they requested on it from 20 per cent to 10 per cent.

Mr. McKINNON: The French asked for a 50 per cent reduction and we gave it to them. I might say that we got concessions from France on plywood.

Mr. ISBISTER: That is correct.

Mr. McKINNON: They gave Dr. Isbister's group very substantial concessions on plywood and they asked us to give them a 50 per cent concession on this wood. We felt it would do no harm to the Canadian industry. So we reduced it from 20 to 10 per cent.

Mr. FULTON: Was a request made to bind it for three years?

The WITNESS: Yes, sir.

Mr. FULTON: As a sort of quid pro quo for the reduction on our British Columbia plywood?

The WITNESS: Yes.

Mr. McKINNON: We selected a definite lumber item so that they could say that they got something in the lumber field.

The WITNESS: This item was established early in the war and it continued in effect since then. It was bound at Torquay free.

Mr. BALCOM: Item 506 is only a small item but I presume the British would be the suppliers of those matches?

Mr. McKINNON: You mean matches of wood?

Mr. BALCOM: Yes.

The WITNESS: Imports under matches of wood amounted to \$15,000 of which \$12,460 came from Sweden.

Mr. BALCOM: I thought so.

The VICE-CHAIRMAN: Are the items on page 48 acceptable to the committee? Then page 49 from item 511 to item 519a. Are the items on page 49 acceptable?

Mr. CRESTOHL: Are golf balls made in Canada?

The VICE-CHAIRMAN: Are the items on page 49 acceptable to the committee? Then page 50 from item 519a to item 532d?

Mr. MACDONNELL: Have we a breakdown of the countries under item 520?

Mr. McKINNON: You will find that it includes the United States, Peru, Brazil, and Egypt.

Mr. FULTON: Does Egypt come under the British preferential tariff now?

The WITNESS: No.

Mr. FULTON: Then what about the Sudan? Would the Sudan be bringing in cotton?

Mr. McKINNON: I do not think we have much, if any, imports from the Sudan on cotton. This is sort of a concession which one has to make sometimes in a trade agreement. It does not cost us much because our own raw cotton is not here to be protected. Yet, because of the size of the trade, it is of importance.

The WITNESS: The whole item of raw cotton was bound to the United States in 1947. Peru asked for a binding of part of the item covering raw cotton and we very gladly bound the item again for Peru. Somebody asked for some information regarding imports.

In 1949 our total imports of raw cotton amounted to \$65,670,000 of which \$49,690,000 worth came from the United States; \$15,620,000 worth came from Mexico; \$148,700 worth came from Peru, and \$48,000 worth came from Egypt.

Mr. MACDONNELL: What is the unit that you used?

The WITNESS: Dollars.

The VICE-CHAIRMAN: Are the items on page 50 acceptable to the committee? Then page 51 from item 535 to item 537a?

Mr. ASHBOURNE: Where does hemp yarn come from mostly? Is it Italy?

The WITNESS: This concession was given to Italy. The imports under item 537 are made up of a combination of imports under two items; they are not separately recorded; but my information is that they come mainly from the United Kingdom with some from Italy.

Mr. ASHBOURNE: I am glad to see that the duty is reduced there from 20 and 17½ to 3, and I think the value of the trade will likely increase.

Mr. STEWART: In connection with the item of sisal fibres not coloured, is there a tax on it if it is coloured?

The WITNESS: It is dutiable under item 535a at 10 per cent, as vegetable fibres.

Mr. STEWART: What happens when sisal is woven into a rug and brought over here?

The WITNESS: It is dutiable as a rug, a carpet, or a mat. There are some items further on these rugs, etc.

(At this point discussion took place off the record.)

The VICE-CHAIRMAN: Are the items on page 51 acceptable to the committee? Then page 52, item 537e to 551f?

Mr. LAING: Under item 549a, what is the origin of our wool?

(At this point discussion took place off the record.)

The WITNESS: With respect to item 549a, the imports under that item in 1949 were valued at \$6,690,000. New Zealand supplied \$3,595,000 worth; Australia supplied over \$2 million worth; the United Kingdom \$243,000 worth; the United States, \$175,000 worth; the Argentine, \$187,000 worth; Chile, \$141,000 worth; and India \$96,000 worth.

Mr. MACDONNELL: Is the relative importation of cotton and wool as \$67 million compared with \$6 million?

Mr. McKINNON: No. The particular item that was dealt with at Torquay is not the main wool item. This wool is just for carpet use. The imports which Mr. Callaghan has given to you just now relate to the main wool item.

The WITNESS: No, item 549 covers only carpet wool.

Mr. McKINNON: We did not deal with item 549 at Torquay. Imports under it would be much higher than that.

Mr. MACDONNELL: I assumed so.

Mr. McKINNON: This is a particular item in the Torquay schedule regarding wool for use in making carpets only. It is not the main wool item.

The VICE-CHAIRMAN: Do you wish to have the figures on the main wool item?

The WITNESS: In round figures, they are as follows: The main wool item is recorded under three or four headings. Wool in grease: in 1949 we imported \$6 million worth, mainly from Australia, New Zealand, and the Argentine.

Our imports in 1949 of wool washed and scoured were valued at \$10,545,000, coming mainly from Australia, New Zealand, and the Argentine. There is a small item of wool pulled or slipped of which our imports amounted to \$1,260,000, practically all coming from New Zealand.

Mr. McKINNON: That is your rough figure; \$6 million in one heading, \$10 million in another; and nearly \$2 million in still another.

Mr. MACDONNELL: What about this processed wool?

The WITNESS: We imported almost \$18 million worth of wool tops of which nearly \$16 million worth came from the United Kingdom.

Mr. FULTON: You mean, of processed wool?

The WITNESS: Yes. It comes under the same item.

The VICE-CHAIRMAN: Are the items on page 52 acceptable to the committee? Then page 53, item 552 to item 558b?

Mr. MACDONNELL: What are rovings? That is another new word.

Mr. McKINNON: The term applies in both the woollen and the cotton industry and it refers to one of the first large strands to come off the machine. Some may be as large as $\frac{3}{4}$ of an inch in diameter before they are drawn down and become yarn.

The VICE-CHAIRMAN: Are the items on page 53 acceptable to the committee? Then page 54 item 558b to item 558d? Are the items on page 54 acceptable to the committee? Then page 55 items 558d to item 567a?

Mr. FULTON: Does item 561 include nylon?

The WITNESS: Yes, nylon fabric.

Mr. MACDONNELL: Could we have a rough breakdown of that item of \$12,794,539 under item 561? I want to know how much comes from the United States?

The WITNESS: Five million dollars worth came from the United States and about \$6½ million came from the United Kingdom.

Mr. MACDONNELL: Very well.

Mr. FULTON: What is that? I see you reduced the preference, or the margin of preference from 40 cents to 30 cents per pound. That would give a very substantial preference would it not?

The WITNESS: We reduced the specific duty from 40 to 30 cents.

Mr. FULTON: It is pretty low. Was that 30 cents per pound a substantial or a merely nominal preference?

The WITNESS: It depends on the weight of the material. Any fabric and woven material of artificial silk comes under this item. Plastic wire screening comes under this item because it is woven. The rate on this screening varies from 60 to 90 per cent depending on the weight of the material. Heavy upholstery material may weigh around 8 or 9 ounces to the yard. There is a substantial amount of this material imported under item 561.

Mr. FULTON: Is there a substantial industry in Canada?

The WITNESS: Oh yes, several producers.

Mr. STEWART: Does that apply to the last item, sisal?

The WITNESS: That was a concession given to India. They asked for it and we gave them a substantial reduction.

The VICE-CHAIRMAN: Were there any imports in 1949?

The WITNESS: They are not separately recorded. There is no record of any imports.

The VICE-CHAIRMAN: Are the items on page 55 acceptable to the committee? Then page 56, item 568a to item 571a?

Mr. BALCOM: With respect to item 568b, just for information, would the imports there have been reduced actually in the last few years on "gloves, kid"?

The WITNESS: In 1949 our imports of kid gloves totalled \$426,000 of which \$272,000 worth came from France, \$84,000 worth came from Italy, \$21,000 came from Germany, \$17,000 worth came from the United Kingdom, and smaller quantities came from Belgium, Czechoslovakia, and the United States.

The VICE-CHAIRMAN: I think Mr. Balcom asked if they were reduced during the previous years?

Mr. BALCOM: If you have not got that information right there, do not bother.

The WITNESS: In 1947 the imports under this item were \$316,000; but in 1948 they dropped to \$266,000. Then in 1949 they increased again to \$426,000.

The VICE-CHAIRMAN: Are the items on page 56 acceptable to the committee?

Mr. STEWART: With respect to item 570a, is that the item under which sisal is given for duty purposes?

The WITNESS: There is another item, 572a. We negotiated this item at Anneey and gave it to Haiti. It is not included in this list. Sisal and cane straw have a rate of 20 per cent.

The VICE-CHAIRMAN: Are the items on page 56 acceptable to the committee? And now to answer Mr. Stewart's question you must go to an item which is not on this page.

The WITNESS: It is not in this group because it was not dealt with at Torquay. As I said, the rate is 20 per cent.

The VICE-CHAIRMAN: Are the items on page 56 acceptable to the committee? Then page 57, from item 572 to item 608b "Oriental and imitation oriental rugs or carpets and carpeting, carpets and rugs, n.o.p."

Mr. FULTON: Why is there such a high tariff on item 572? Is that purely a revenue tariff?

The WITNESS: On item 572?

Mr. FULTON: Yes.

The WITNESS: It is not nearly as high as it was some years ago. Are you referring to right now?

Mr. FULTON: 25 per cent.

The WITNESS: 25 per cent, and 5 cents per square foot.

The VICE-CHAIRMAN: Yes.

Mr. McKINNON: It is of course a revenue duty in one sense of the word, in that anything of that nature such as an oriental rug or a Persian rug or a Chinese rug, may be deemed to be a fit subject for revenue. But in addition to that, this is the protection afforded to the Canadian carpet industry.

Mr. LAING: What about item 586? Are we getting in any United Kingdom anthracite?

Mr. McKINNON: I must first answer Mr. Fulton's question. There is a revenue element in it, but that item does provide protection in the main for the Canadian carpet industry.

Mr. FULTON: I would have thought even without a duty on oriental rugs, there would have been protection for the domestic type of rugs and that a duty would not be necessary for protective purposes.

Mr. McKINNON: You are quite right as regards the orientals, except that some Canadian manufacturers are now making an imitation oriental and it is a pretty fine type of rug. As far as the customs tariff goes, orientals are not separated from the ordinary type of carpet. The item includes oriental, imitation oriental, and all other carpets except certain particular ones, such as sisal, cocoa fibre, manilla, and so on.

Mr. FULTON: That is item 572. Does your oriental not qualify it?

Mr. McKINNON: No. It really should be read and can be read, as oriental, imitation oriental rugs and carpets, and carpets and rugs n.o.p.

Mr. MACDONNELL: Can we have a national breakdown of that item of \$10 million?

The WITNESS: The United Kingdom supplied \$5,834,000 worth. The United States supplied only \$110,000 worth. India supplied \$1,291,000 worth; while Belgium and Luxemburg supplied \$1,400,000 worth. That is just a rough breakdown.

Mr. CRESTOHL: Are they only for orientals?

The WITNESS: No, all kinds of carpets.

Mr. MACDONNELL: The \$47 million item for coal anthracite; what is the break-down of that item?

Mr. McKINNON: While Mr. Callaghan is looking that up, I would like to reply to Mr. Laing, who asked if we were getting any anthracite from the United Kingdom now. I cannot say positively because we were not negotiating at Torquary regarding anthracite. We have simply bound the free entry. But I was told by one of the British delegates at Torquay that they were again starting to ship anthracite to Canada. I do not know how much, but he told me that I would be interested to know that they were again shipping anthracite to Canada. They fell out of our market for a while during and after the war. But he said: We are again starting to ship anthracite to Canada.

The WITNESS: In 1949 we imported over 4 million tons valued at \$47 million. The United States supplied 3,743,000 tons valued at \$43,200,000. The United Kingdom supplied 326,000 tons valued at \$3,950,000.

Mr. McKINNON: So the United Kingdom has begun to come back again to the extent of nearly 4 million tons as against 44 million tons from the United States.

Mr. STEWART: Item 597; does it include bagpipes as being musical instruments?

Mr. McKINNON: Bagpipes have been given a separate classification.

Mr. FULTON: They are like the Scottish themselves, they are classified as settlers.

The WITNESS: Bagpipes and parts thereof come in free from England, Scotland or any part of the British Empire. They are subject to 25 per cent if they come from foreign countries.

Mr. BALCOM: It should be 100 per cent!

Mr. COTE: With respect to item 601, what are the imports under that item?

The WITNESS: That is a duty free item. The United States supplied \$15,225,000 worth, and the United Kingdom supplied only \$130,000 worth.

Mr. McKINNON: Out of the total of \$16,294,489, the United States supplied over \$15 million worth. A partial explanation of that would be that it is free across the board. It is free under any tariff. Therefore, furs from some

other country could be purchased in the United States and they would still come in free.

Mr. COTE: Of all kinds?

Mr. FULTON: Could you tell me what comes under item 608a? What is kip leather?

The WITNESS: It is made from a very young goat.

Mr. McKINNON: I think it really originated in India where they tan the hides of goats and make out of them East India tanned kip. The item has been in the tariff for many years and we were supplied almost entirely from India. It is used to a great extent for lining boots and shoes.

The VICE-CHAIRMAN: Are the items on page 57 acceptable to the committee? Then page 58 from item 609 to item 618a?

Mr. MACDONNELL: Could we have a breakdown under item 616 of that \$13,488,672?

The WITNESS: This item was bound to Indonesia. The imports under item 616—1 amounted to \$13,488,000 of which \$10,800,000 worth came from British Malaya; \$1,658,000 worth came from Ceylon; and \$878,000 worth came from the United States.

The VICE-CHAIRMAN: Are the items on page 58 acceptable to the committee? Carried.

Mr. CRESTOHL: With respect to item 616, crude rubber, does that not fall under the heading of items which are not manufactured in Canada?

The WITNESS: It competes with synthetic rubber which is manufactured in Canada.

Mr. McKINNON: The 5 per cent duty was put on long before we ever heard of synthetic rubber. That 5 per cent went on in 1932, at which time the British represented that we might increase our use of commonwealth rubber, if there was some small duty in the intermediate tariff. Prior to that time, Canadian manufacturers could buy British rubber in New York and bring it in free; and the British Government felt that it would be of assistance to British commonwealth rubber to impose a small duty under other tariffs. The government of the day thought also, that it would stimulate direct shipment to Canadian ports.

Mr. CRESTOHL: Has time proven that they were right in that judgment?

The WITNESS: No. There are indirect shipments yet.

Mr. CRESTOHL: But it would give them some measure of protection?

Mr. McKINNON: Yes. I think that the 5 per cent duty on what I might call indirect routing had some effect in increasing the amount that was shipped direct, but it would not be very great as 5 per cent.

The VICE-CHAIRMAN: Are the items on page 58 acceptable to the committee? Then page 59, item 618b to item 647? Are the items on page 59 acceptable to the committee? Then page 60, items 648 to 657?

Mr. STEWART: Is there a tariff on item 624 "ornaments of amber"? Is it a revenue tariff?

The WITNESS: It has been there for years. The imports are not separately recorded.

Mr. STEWART: There is an element of protection in it, is there not?

The WITNESS: There is no protection in it. Ornaments of amber might compete with ornaments made of plastic.

Mr. McKINNON: I think the real explanation was that India was most anxious to make an agreement with us. It was very difficult for the Indian negotiators to find any item on which we could give them a reduction. When you have dealt with a few Indian specialties, such as cocoa matting, it is difficult to think of much else. Incidentally, they were keenly aware of the fact that we

give India the full benefit of the British preferential in our tariff on every item whereas Canada does not get preference in India. The Indian negotiators appreciate this and did not like to ask for much. Nevertheless, we encouraged them for the sake of an agreement, to find some few items on which we could at least make a token concession, and this was one of the items they selected. I do not think it will amount to anything in the way of trade, but this is one they asked for.

The VICE-CHAIRMAN: Are the items on page 59 acceptable to the committee? Then page 60 items 648 to 657?

Mr. COTE: In relation to item 655a, was mention made at Torquay of graphite?

The WITNESS: Item 655a, graphite pencils?

Mr. COTE: No, graphite ore, I mean the mineral. Was mention made at Torquay of graphite ore?

The WITNESS: No.

The VICE-CHAIRMAN: Are the items on page 60 acceptable to the committee? Then page 61 from item 658a to item 624b.

Mr. MACDONNELL: What about item 663? Where does that amount come from?

The WITNESS: Imports from all countries were valued at about \$3 million of which \$2,700,000 worth came from the United States.

The VICE-CHAIRMAN: Are the items on page 61 acceptable to the committee? Then page 62 items 711 to item 712? Are the items on page 62 acceptable to the committee? Then page 63 item 723 to item 743. Are the items on page 63 acceptable to the committee? And then page 64 from item 759 to item 808. Are the items on page 64 acceptable to the committee?

Mr. MACDONNELL: What about item 800? How much of that came from the United States?

Mr. MCKINNON: I think you will find that it came almost entirely from the United States.

The WITNESS: It all came from the United States.

The VICE-CHAIRMAN: Are the items on page 65, items 815 to 829 acceptable to the committee? Then are the items on page 66, item 840 to 857 acceptable to the committee?

Mr. MACDONNELL: What about item 844? How much of that came from the United States?

The WITNESS: The United States supplied \$2,639,000 worth of goods imported under tariff item 844.

Mr. FULTON: Is that the stuff the Maritimers drink?

The WITNESS: It is not potable.

Mr. BALCOM: Excuse me!

The VICE-CHAIRMAN: Are the items on page 66 acceptable to the committee? Then page 67, items 858 to 861? Are the items on page 67 acceptable to the committee?

Carried.

Mr. LAING: Mr. Chairman, I move that we adjourn.

The VICE-CHAIRMAN: This is the end of the statement. We shall adjourn now to the call of the Chair.

Mr. FULTON: What shall we take up next time, Mr. Chairman, the other table?

The VICE-CHAIRMAN: We shall take up the other table.

Canada: Bankin
Standing Committee
SESSION 1951

HOUSE OF COMMONS

CA/2613
-111
STANDING COMMITTEE

ON

BANKING AND COMMERCE

CHAIRMAN—MR. HUGHES CLEAVER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 5

TORQUAY NEGOTIATIONS

MONDAY, JUNE 11, 1951

WITNESSES:

- Mr. H. B. McKinnon, Chairman, Canadian Tariff Board;
Dr. C. M. Isbister, Director, International Trade Relations Branch, Department of Trade and Commerce;
Dr. E. A. Richards, Director, International Economic Relations Division, Department of Finance.

MINUTES OF PROCEEDINGS

MONDAY, June 11, 1951.

The Standing Committee on Banking and Commerce met at 4 o'clock. Mr. Hughes Cleaver, Chairman, presided.

Present: Messrs. Ashbourne, Balcom, Carroll, Cleaver, Dumas, Fulton, Gour (*Russell*), Harkness, Low, Macdonnell (*Greenwood*), Richard (*Gloucester*), Sinclair.

In attendance: Messrs. McKinnon, Callaghan, Isbister, Richards, B. G. Barrow and P. C. Gauthier.

The Committee resumed its examination of the Torquay Negotiations.

Tariff Item No. 91 of Schedule B was further allowed to stand.

Mr. McKinnon was called and, at the request of Mr. Macdonnell, made a general statement reviewing British preference in Canadian tariff.

Mr. Isbister was called and also commented on British preferential tariffs.

Messrs. McKinnon and Isbister were jointly examined.

Mr. Carroll presided from 4.35 to 4.50.

Messrs. Fulton and Laing having arrived, Mr. Richards was called and the Committee reverted to Tariff Item 91.

The witness tabled copies of a table on exports of apples and was questioned thereon.

At 5.50, the examination still continuing, the Committee adjourned to the call of the Chair.

ANTONIO PLOUFFE,
Acting Clerk of the Committee.

EVIDENCE

The CHAIRMAN: Gentlemen, we have a quorum. We have concluded our work on schedule B with the second meeting, excepting the item on apples, and as Mr. Fulton is not here but will be here later in the afternoon I would suggest that we leave over that item. I believe, Mr. Macdonnell, you indicated that when we concluded our work on schedule B that you would like a general discussion in regard to British preference, and it would appear as if now is the logical time for us to have that discussion. Have you any comments that you would like to make or would you rather have a general statement from Mr. McKinnon first before making your comments?

Mr. MACDONNELL: Perhaps you would allow me to take about thirty seconds to indicate what has been on my mind. I do not know whether you feel, Mr. Chairman, it is within the terms of reference of the committee, and whether Mr. McKinnon will feel it is necessary or sensible, but I feel that I would like to know the views of our experts as to whether there are any things in the general picture of our trade that we should pay attention to at the moment. We have our general figures, we know our trade with the United States is at a maximum. Nobody believes that the British or Imperial preference is the answer to all our troubles, of course, but on the other hand what I am wondering is whether it would be worth while to spend a few minutes to ask Mr. McKinnon to take us back for a fair number of years and let us have a picture of the variations of preferential policy.

The CHAIRMAN: The Chair rules you are entirely in order, Mr. Macdonnell. Carry on.

Mr. MACDONNELL: Without mentioning names I did happen to meet the other year one of the leading Republicans and I was struck with the fact, talking about tariff matters, that he said things are going on all right now but if we develop an agricultural surplus we will be back doing the same thing as we did before. Now, would Mr. McKinnon give us a bit of review, just going briefly over the situation so as to remind us of what has happened, and then taking the present situation give us some information coupled with his views as to the direction of our trade, and finally try to put this matter of preference into its proper setting? We do not want to exaggerate but on the other hand we do not want to ignore it. In some parts of the country it is vital and in some parts of the country we are apt to ignore it too much. If that seems sensible to you, Mr. Chairman, perhaps Mr. McKinnon could give us a summary going back over a considerable number of years but just taking the high spots.

Mr. Hector B. McKinnon, Chairman of the Tariff Board, called:

The WITNESS: Mr. Chairman, that is a pretty big order.

Mr. MACDONNELL: We know we can give you big orders.

The WITNESS: I imagine all members of the committee or most of them who are here know even better than I do the background of the British preference in the Canadian tariff. For something around fifty years, Canada has extended throughout her whole tariff schedule a preference to other parts of the British Empire or commonwealth. This was achieved by a number of steps, mostly by differentials or percentages of rates as a preference.

Mr. MACDONNELL: Could I ask you just one question? Did they include Crown colonies?

The WITNESS: Yes. It reached its full culmination when the tariff was set up in three distinct columns, British preferential, intermediate, and general, and under that three column arrangement a rate was imposed in each column; in many many cases, of course, the rate in the British preferential column is free. Mr. Callaghan gave you figures showing roughly the number of items in the tariff, the number that are free under all tariffs, and the number that are free under the British preferential tariff. I think it was Mr. Macdonnell himself who commented, when Mr. Callaghan gave that statistical analysis, that the actual total of numbers was not a very logical criterion to use. I would agree with Mr. Macdonnell, that if you merely count the items it does not mean a great deal, because a very large percentage of the numbers might be those of items in respect of which there was very little trade. Mr. Callaghan then gave the values of importations and they are all now on the record, under each of these tariffs. I think you will have to discuss the matter of preference, Mr. Chairman, from two points of view. First, the impact upon Canada represented by the British preference in our tariff, and, secondly, the benefits that redound to Canada by reason of preferential treatment that our exports get in other parts of the commonwealth. Now, if we take the first one, I think it is only fair to say that, in the minds of all people in both Canada and the United Kingdom and the other parts of the commonwealth, the matter of a preference has been most highly regarded for many many years. All parties, —and I am not meaning political parties—all parties in various parts of the commonwealth have seen great merits in it and it was only when, because of exchange troubles particularly, various parts of the commonwealth found that they could no longer find the dollars to import Canadian goods that in our opinion—and I use “our opinion” modestly; I mean those who are responsible for negotiating agreements—came to realize that although the preferences still exist on paper, in many many cases they have lost their actual value because there is no longer any trade under them, and, unfortunately, in some parts of the commonwealth at least, not any very encouraging prospect of trade under those items. I well remember that at Geneva, when we had to discuss the possibility of giving up some of our preferences in Australia and New Zealand in order that these two countries might make an agreement with the United States, I asked the then leader of the Australian delegation to tell me quite frankly and candidly how long in his opinion the preference that we enjoy in his market on automobiles and automobile parts would be of any value to us. Before I give his answer I would remind members of the committee that it was the exports to Australia, New Zealand and South Africa in particular that kept our automobile industry going for many years; in round figures exports represented about sixty per cent of the total production in Canada. The reply given to me by the then leader of the Australian delegation was that within three years we probably would not be shipping any automobiles or any parts to Australia. Now, that was in 1947. He was not then thinking entirely of the difficulties arising out of exchange. He had in mind, perhaps first of all, that Australia was determined to have her own automobile industry and was not only making the various components of the chassis and the body, but was actually making the engines. Nevertheless, we have prized very highly our preferences abroad and in many cases they have given us the opportunity to get into another commonwealth market on terms that made it possible for us to take a very large part of the trade. Latterly, of course, the trade has been dwindling. Australia, New Zealand, South Africa, the West Indies and various of the Crown colonies have found it difficult to import goods from Canada, and while some of them hold out hope that that particular situation may be straightened out in due course there is at the moment not any very glowing prospect that

that will come in the foreseeable future. It was for that reason, sir, that at Geneva in 1947 we represented to the United Kingdom negotiators in particular, that it might be well if we could both get the matter of preferences back where it was for several decades prior to that, namely, on a non-contractual basis. We told the United Kingdom delegates that there was no thought in our minds of suggesting increases in rates of duty against United Kingdom products; indeed that we were prepared, as far as we were concerned, to bind against any increase the British preferential rates that existed at that stage. Now, I must say that that removed one great fear from their minds: That the freeing of our hands in respect of preferences might be a curtain raiser to raising rates against the United Kingdom. We undertook to put into the exchange of notes that Canada would not raise these rates against the United Kingdom and that the rate on any commodity represented in any of these schedules to which Canada was a party would remain the ceiling rate.

Mr. MACDONNELL: What is the meaning as between that and contractual?

The WITNESS: I was just coming to that, Mr. Macdonnell. On the contractual basis, from and after 1932, sir, the preferential margins were bound against diminution; that is to say, we could not narrow a preference that the United Kingdom enjoyed in this market.

The CHAIRMAN: By giving some other country a lower rate?

The WITNESS: Yes, by giving some other country a lowered rate. We were bound not to do that, and equally they were bound in their market not to narrow our preference. But we raised the whole problem and said: Would it not make it easier for all of us to negotiate with third parties if we had a little bit of discretion, a little bit of freedom as to margins? I think that what persuaded them most that it might not be too objectionable was our willingness to bind against any increase every rate to Britain.

Well, as you know, sir, the exchange of notes occurred and since that date Canada and the United Kingdom, in particular, have been free to do as they like with each other's preferences; but in every case that I can recall over the past fifteen years during which we have been negotiating with foreign countries, in every case that I can recall at the moment, there has been consultation first. And in most cases, in spite of the fact that there was no contractual or legal tie, there has been virtual agreement before the new rate was struck.

By Mr. Carroll:

Q. Was there any increase in British preferential tariffs since the old days, generally speaking?—A. You mean in our tariffs, sir.

Q. Yes?—A. Did we raise rates against Britain?

Q. Yes?—A. There were a few cases but very very few. There was one even at Geneva, if we want to get down to that detail. We wiped out one margin of preference at Geneva by raising the British preferential rate to the same as the most-favoured-nation rate, that was on tinplate. That was the only instance, and the history of that is that such action provided a new scalp for the American belt, as the British used the phrase, and it did not in their opinion affect them because they did not expect to ship any or much more tinplate to Canada.

Q. Was there any increase in the preference Great Britain gave to us?—A. By widening or narrowing of the tariff?

Q. Any increase in the amount of the tariff, if you want to put it that way.—A. No, because we were bound both ways.

Q. To the present time has there been?—A. No. An advantage to us has been that most of our products went into the United Kingdom free of duty whereas not all their products come into this market free of duty.

The exchange of notes was effected. We negotiated under the new terms at Geneva, again at Annecy, and again at Torquay, without, I think, any evidence of ill feeling and I hope with mutual advantage. We are still bound in a purely contractual legal manner with South Africa and Australia. That binding affects many items in our tariff—certain raw materials, foods, fruits in particular, sugar—and in none of those items is it competent for us to reduce a rate in favour of a third country no matter what we might be offered in return for it. In other words, we cannot reduce the most-favoured-nation rate on the great number of items in our tariff without the explicit consent of Australia and South Africa.

By the Chairman:

Q. Before you leave the point, Mr. McKinnon, and at the present what is the round figure of our exports to those countries?—A. In dollars do you mean?

Q. Yes?—A. Dr. Isbister would have the round figures for each of those countries more readily available than I have. Can we look up those figures later, Mr. Chairman?

Q. Oh yes, I am sorry to have interrupted.—A. At Torquay we were approached on a number of occasions by both Australia and South Africa and, my memory is, on a few occasions by New Zealand, as to whether or not we would raise any objection if, in order to make an agreement with the United States or some other country they cut by some amount our preference in their market. In no single case did we refuse. We said in several cases that our preference has been of value to us; that we prized it not alone for its sentimental value but for its value in trade; but nevertheless that, if our giving up a part of that preference or that whole preference would help them to get some concession from some other country that might increase their trade both ways, we were prepared to concur in a reduction of our margin or indeed in the loss of it. Mr. Fulton, if he were here, would immediately think of apples, which preference we gave up in Geneva in 1947. We would, as negotiators, have been very happy if we could have made an exchange of notes with Australia and South Africa comparable to the exchange of notes that we made with the United Kingdom. I am certain as I stand here that had we been able to accommodate one another in that sense probably we all would have made better agreements at Torquay.

Mr. William F. Carroll assumed the chair.

Mr. Low: What was the difficulty in that you were not able to make agreements with South Africa?

THE WITNESS: Well, in the final analysis, Mr. Low, we got a courteous but firm refusal from each of the countries, a refusal to allow us the liberty we sought. Now, we must remember that, at Torquay, by the time we got these final refusals, both Australia and South Africa and, indeed, New Zealand, had come to the conclusion that they themselves were not going to be able to make agreements with the United States. I am not suggesting for one moment that the attitude was one of dog-in-the-manger; but, knowing that they were not going to make agreements themselves with the United States and feeling, I think, that probably we were, they did not see that they should yield on that point.

I would like to read one paragraph from the Board of Trade Journal of the 12th of May. As you know the Board of Trade Journal is the official organ of the Board of Trade of the United Kingdom, a government publication. This

is a summary by the Board of Trade Journal of the position of individual commonwealth countries as a result of Torquay. I will read the paragraph relating to Canada:

CANADA: Under the terms of the Exchange of Letters dated October 30, 1947—

That is the Geneva exchange of letters,

—all preferences enjoyed by Canada and the United Kingdom in each other's markets became non-contractual, and Canada is therefore free to reduce margins of preference without the consent of the United Kingdom. In nearly every case—

Now, I read that because that is the wording here, but I personally cannot recall a single instance, no matter how insignificant the item, where we did not approach the United Kingdom delegation in the matter.

In nearly every case Canada gave the United Kingdom an opportunity of expressing her views and in many cases was able to put her offers in a form satisfactory to this country.

In other words, we did not demand hide, hair and tail in informing the United Kingdom that we would like to make a concession on a certain product, the result of which would be to decrease their margin in our markets.

By Mr. Harkness:

Q. Just before you go on, Mr. McKinnon, on this freedom to negotiate as far as the United Kingdom was concerned, why did South Africa and Australia not give us that freedom?—A. Not all items are bound to the same commonwealth countries.

Q. I was wondering to what extent that is true?—A. Freedom vis-à-vis the United Kingdom meant that we could insert certain concessions into the Torquay schedule. Not so as regards the others.

Q. Were there many of these?—A. Not many, but there were some very important items that we should have liked to put in. I continue reading:

In nearly every case Canada gave the United Kingdom an opportunity of expressing her views and in many cases was able to put her offers in a form satisfactory to this country.

In other words, if we had in mind a cut of X in the preferential margins and they said they would be happier if we limited it to, say, X less 10 or X less 20, we attempted to meet their requests in so far as we possibly could.

In the course of the negotiation of a large-scale agreement between Canada and the United States, however, some margins of preference in Canada to which the United Kingdom attached importance were reduced. On the other hand, imports into Canada from the United Kingdom covering 1.2 million pounds in terms of 1949 trade will benefit from reductions made by Canada in British preferential rates or in most-favoured-nation rates where there is no preference.

You may remember that in Mr. Callaghan's evidence he stated that at Torquay we totally eliminated the preference on forty-seven items. The value of the imports into Canada under the entire group of forty-seven, not from the United Kingdom only but from the whole commonwealth, was less than \$75,000. The statement in the Board of Trade Journal is that, although they were hurt on certain items, imports into Canada from the United Kingdom covering 1.2 million pounds in terms of 1949 trade will benefit from reductions made by Canada in British preferential rates.

Moreover, as a consequence of the provisions of paragraph 3 of the Exchange of Letters, duties payable on United Kingdom goods are bound

against increases on a further 1·1 million pounds of United Kingdom trade in 1949 as a result of the new concession made at Torquay by Canada in favour of other countries.

I think that that shows fairly clearly that although we did secure our liberty, if you want to put it that way, at Geneva, we have not abused that liberty. Indeed we have dealt, I think, very delicately and gently with it and as this British government publication says, one net result of Torquay is that the United Kingdom has secured reductions or bindings on items which in 1949 represented a total trade of two and a fraction million pounds.

Mr. Low: That is what I was interested in, the reaction of South Africa. Their fears would not be allayed as a result of that experience?

The WITNESS: As you know, sir, wool was the desideratum in respect of Australia. That country had secured a concession of one-quarter of the duty in the American tariff at Geneva. There is not the slightest doubt that they would have got the whole fifty per cent at Torquay if they had been able to make the concessions that the United States was asking for, at least, some of them. But apparently Australia felt she could not make any substantial concessions to the United States. As time wore on, Australia saw little prospect of a further concession on wool. South Africa is also very highly interested in wool and no doubt realized that if the concession did not go to Australia, it certainly would not go to Africa. My deduction would be that feeling that she did not have a great deal to get, she probably saw no reason why she should give. Agreements really turned on wool in respect of those two countries, Mr. Low. If events had made possible a little bit more accommodation among the three that were bargaining—the United States, Australia, and South Africa—and if a reduction in wool had been compensated for by reductions that the United States could have accepted as compensatory, I think everyone would have left Torquay considerably happier than they did.

I have talked largely in terms of eliminations of preferences. There are numerous reductions in the preferences enjoyed by the United Kingdom in the Canadian tariff, as Mr. Callaghan has explained. It has appeared to me as we have been reviewing the schedule of tariff changes that it was the reaction of the committee that in most items there had been a very small narrowing of the preference; and, further, that on most items a pretty substantial preference still remains. I do not say that applies in every case. If you get down to a rating of "free" as against 5 per cent, it is not very much of a preference, and, in a case like that there never was very much of a preference.

My own feeling is we attempted to deal not only generously but justly with the United Kingdom in respect of every single item that was discussed. I do not know whether Mr. Macdonnell has any other questions. I have not attempted much of a historical review, because it seems to me the important thing and the thing that is in your minds is, what is happening now and what about the future?

By Mr. Macdonnell:

Q. Can you give us, or perhaps you are coming to it, an idea of the amount of trade affected over the course of the years by the preference—particularly to the United Kingdom, of course?—A. Our exports to the United Kingdom? Well, Dr. Isbister, I think, would have to do that. I have not got the detail of those figures. Are you thinking, Mr. Macdonnell, chiefly of the extent to which trade may have been impaired by loss of preference in the United Kingdom?

Q. Partly, but I want to get an idea how important this preference has really been? Also, if it is not going too far afield and if it is tell me, what happened to us? For instance, you remember those two American treaties which did so much damage? Could you give us a little picture at those two

times? As I said, a couple of years ago I met one of the leading Republicans who said: Don't forget that kind of thing can happen again.—A. You are thinking of the Fordney-McCumber and the Smoot-Hawley tariffs.

Q. Yes. I do not want you to spend a lot of time on it but could you complete the picture?—A. At that time we did not have the type of agreement with the United States that we have now, whereby we have our rates bound against any increase. We were at their mercy at that time, in that we extended to them a certain regime, and for their own purposes and in their own time they had extended certain concessions but, you are quite right, overnight we found the trend reversed.

Q. Yes?—A. We suddenly faced a drastic increase of duties in the United States. Today, all the concessions we got at Geneva are bound for a further three years and, in addition, the concessions we got at Annecy and Torquay are similarly bound for three years. I feel that there is no comparison in the two situations at all, in that we now have rates guaranteed to us under the General Agreement and those rates can be broached or abrogated only by the most drastic action on the part of the United States—action which would certainly leave us free to retaliate if it came to that. I know you may have in mind that the Reciprocal Trade Agreements Act as now going through Congress has been worsened. The duration of the Act is two years instead of three years. Peril points are put in which were not in before and below which the President may not go except, so to speak, at his own peril; he does not have to follow the advice of the United States Tariff Commission but if he does not he has to explain to Congress. The third, and I suppose the most dangerous feature, is in connection with products under the Agricultural Adjustments Act. I will try to put this in concise and simple terms. Under the former legislation, there was a provision whereby any concessions given by the United States to a third country enjoying most-favoured-nation treatment would override the provisions of the Agricultural Adjustments Act—in other words the Agreement would override the domestic legislation. I understand that in connection with some, and particularly perishable agricultural products, the law as now written is the other way: In respect of any agreement made in the past or to be made in the future the concession granted may not conflict with the law. In other words, the domestic law may override tariff concessions given under an agreement. I understand that this provision may be somewhat watered down, because the Senate committee in reporting this change in the Act, did say in explanatory notes that the President would have various ways and means open to him for dealing with different situations, and that probably he would be able to do so in a manner not incompatible with the arrangements made with most-favoured-nation countries.

Q. Would it be a fair question to ask in the roughest manner what percentage of our present export trade to the United States would be secured to us over a period of years in the manner you suggest?—A. You mean under the existing schedules? Would you know that, Dr. Isbister?

Q. It is amounts and totals I am thinking of.—A. That is not just the dutiable imports but all of them?

Dr. ISBISTER: Over all it would be in excess of 90 per cent.

Mr. MACDONNELL: Of our total trade?

The WITNESS: With the United States.

By Mr. Harkness:

Q. Take a specific example, beef cattle. If under American legislation the price of beef cattle fell to some particular point covered by that legislation, then we would be more or less automatically by that law barred from the beef cattle market?—A. It would not be automatic. There would have to be

cognizance of the obligation. The Secretary of Agriculture, I think, would be in a position of having to make representations and/or recommendations to the President. I believe that even in the most drastic form which the law has taken the President does not have to take advice from the Tariff Commission or the Secretary of Agriculture; but if nevertheless he felt that for domestic reasons and because of matters of high policy, he had to act, then the first thing that he has to do under the general agreement is to consult us. Now, consultation as a general rule leads to some accommodation and some arrangement. If in the end, nevertheless, he did take action against, for example, our beef cattle concession, which we would regard as a most important change in trade relations affecting us, we would be free to take any retaliatory action we wished.

Q. Nevertheless, they could in spite of this agreement close the American market on beef cattle?—A. I am not a lawyer but, reading the Act in its revised form I think he could; but I did state the other day that in my opinion it would be unthinkable that he would—and certainly in no case would he do it without the fullest consultation. The consultation might involve compensation in some other form. For instance if the beef cattle provision were withdrawn, or modified, compensation might be offered in respect of other farm products that we might deem to be equally substantial or important; or it might be on some other product; or failing all that, the government of the day—whatever government it might be—probably would feel it would have to retaliate and withdraw from the United States some important concession that we had made at Geneva or Torquay.

Q. None of which would help the beef cattle industry?—A. That is true. I am not attempting to gloss over the fact that under the proposed rewording of the Reciprocal Trade Agreements Act it is not a very encouraging prospect, and I think maybe Mr. Macdonnell has that in mind when he recounted his conversation with a certain Republican or Republicans. On the other hand, our rates of duty are guaranteed to us for three years.

The United States has a most intense addiction to the doctrine of unconditional most favoured nation treatment—which as I think you know, is simply an undertaking by country “A” to country “B” (if they reach agreement) that it will not treat country “B” any less favourably than it treats any other country. I have never quite understood the United States loyalty to the unconditional most favoured nation principle—

Mr. Low: Neither have I.

The WITNESS: I am saying that, Mr. Low, for this reason: As everyone in this committee knows, for very many years the United States has not been greatly dependent on exports. She consumes her own production. Over a long term of years her exports to other countries have represented perhaps some 6 per cent or 7 per cent of her total production. Therefore the unconditional most favoured nation doctrine does not mean nearly as much to that country in indirect benefits as it means to a country which is very dependent upon exports. Canada has been in the latter position for so long, very dependent on exports and, therefore, we stood to gain more from the crumbs that fell from other people's tables, so to speak, than did the United States, that country being rather indifferent as regard exports. Nevertheless, they have an idealistic attachment to the unconditional most favoured nation principle that is quite commendable; but I do not think it means as much to them in dollars and cents in actual trade as it does to Canada.

Q. 6 or 7 per cent of their production would be a pretty sizeable sum of money and it makes for a pretty large percentage of the word's volume of trade?—A. When you put it in terms of dollar value, the absolute amount is a big amount, Mr. Low.

(Mr. Cleaver resumed the chair.)

The CHAIRMAN: But so far as being a peril to their economy it is very small.

Mr. Low: If they can be made to see that it is all right.

The CHAIRMAN: What is our comparable figure to the 6 or 7 per cent in the United States? What do we require to export and import—compared to our total production?

The WITNESS: That is very hard to say because in prewar years we exported a very large percentage—what would you say, Dr. Isbister?

Dr. ISBISTER: Probably one-third.

Mr. Low: It has rapidly changed?

The WITNESS: Yes, it varies up and down every year; and so it does with the United States. We have used 1949 statistics in committee and I would be inclined to say, as far as Canada is concerned, that 1949 was a very big year for United States exports to this country. You will remember that, post-Geneva, the government had to impose restrictions and embargoes on exchange grounds. These applied during all of 1948 and were only beginning to come off towards the end of 1948. After such imports had been embargoed and prohibited for a considerable length of time, the bars began to go up, and in 1949 exports from United States into Canada jumped very very substantially. They regard it as a big import year into our market.

Mr. Low: That was the year when they had a \$12 billion favourable balance with the rest of the world?

The WITNESS: But there were many factors which contributed in that particular year.

I do not know whether I have been of help to the committee in any way. I had no prepared statement, not knowing what I might be asked to discuss.

By Mr. Harkness:

Q. There was one statement you made that I wondered about. Mr. Macdonnell wanted to know about the impairment of our trade as a result of lowering of the preference market.—A. Mr. Macdonnell meant in the United Kingdom, in particular?

Q. Yes, and I would like your comments on that. To what extent has the very considerable decline in our exports to the U.K., which has taken place in the last year, been due to this lowering of preference?—A. I would not want to be dogmatic on that but I would be inclined to say little, if any, bearing at all.

Q. You think it is almost entirely due to currency conditions?—A. Exactly. I doubt myself that we have lost any trade by reason of the impairment of our margins in the United Kingdom market. Even in apples, as Dr. Richards would show if Mr. Fulton were here, where we have given up the preference, the picture is very interesting. The exports from Canada to the United Kingdom have gone up again in spite of the fact that we no longer have a preference. In that case there were special factors, too. I think I can say categorically in general, although not in detail, that I doubt that we have lost a dollar of trade in exports to the United Kingdom because of the loss or impairment of any preference.

Mr. MACDONNELL: Would you say that bulk buying has made it more difficult to say what the reasons are?

The WITNESS: Exactly. That is one very important consideration. There is no question but that bulk buying and state trading means that very often a preference is not a factor in the transaction at all or, if it is a factor, it is a hidden factor that you cannot very well appraise.

Dr. ISBISTER: I wonder if it might not be added at this point, with regard to the large number of exports we sent to the United Kingdom in the 1930's, and the larger part of what we sell them today, that these consist of Canadian basic products which are on the whole of better quality and lower price than can be obtained in the outside world from elsewhere. The sales to the United Kingdom amount to higher net revenue to Canadian exporters and without the preference they are still the cheapest and best products of their kind which can be bought on the United Kingdom market. Therefore, it is difficult to say with regard to the vast bulk of exports to the United Kingdom that the volume of sales has been affected very much, outside the field of miscellaneous manufactured goods which have never been large in volume in the United Kingdom.

Mr. HARKNESS: Still, we have had a very great reduction in a number of important products. I would mention, particularly, bacon.

Dr. ISBISTER: For other reasons.

Mr. HARKNESS: Yes, but nevertheless there has been a very important reduction in many important items?

The WITNESS: That was not in any way the result of a loss of preference.

Mr. HARKNESS: I am not suggesting that.

The CHAIRMAN: Is there a table that can be made available to the committee without too much trouble, showing our favourable trade balances with the United Kingdom and our deficit trade balances with the United States, say since 1930?

The WITNESS: Yes, that could be produced.

The CHAIRMAN: I would like that on our records.

Mr. MACDONNELL: Can we get it in dollars and in quantity both, or does that make it too difficult?

The WITNESS: There might be certain commodities where we might get quantities but in the main it would be only dollar value.

The CHAIRMAN: Am I correct in assuming that on account of the exchange situation our credit balance of trade with the United Kingdom dropped very substantially and we just had to get other markets? The improvement in our deficit trade balance with the United States has helped to take up the slack?

The WITNESS: Yes, that is true in general terms.

The CHAIRMAN: Well, in order to achieve that improved trade position in the United States—and this is the question in my mind—have we given the United States any compensation that might be considered as prodigal or considered as impairing our future trade relations with the United Kingdom when times become normal again?

The WITNESS: No, sir. In respect of that question, the one commodity I might think of that would fit in general into your query would be anthracite coal. Britain did prior to 1947 enjoy a preference in this country. It was small—50 cents a ton. As you know, Britain had dropped out of the market during the war and, in 1947, at Geneva, we eliminated that preference for purely domestic reasons—on the grounds that we had little or no anthracite in Canada and, further, the United States had dealt with us pretty reasonably all through the war in giving us a fair portion of their supply. We eliminated the preference on anthracite coal. At the time, that did disturb the United Kingdom government very greatly but, on the other hand, I think they attached undue importance to the matter of 50 cents a ton on coal that may have been at that time worth \$10, \$12, and \$14 a ton. It was a very small preference and now, apparently, although the preference has gone, United Kingdom anthracite is again coming into this market. Indeed, there was a day, as many in the committee will remember, when Welsh coal for blower use had a growing and expanding market in this

country without relation to the preference or the duty or anything else; and if they can put that coal here again, they will still have a market for it.

By Mr. Carroll:

Q. Is there a duty on anthracite coal coming into the country now?—A. Not now. It is free since 1947; but there is a duty on soft coal.

Q. I think I am more or less responsible, in my way. There is still a duty on American anthracite?—A. No, that was removed after Geneva. It is now free under the British preferential tariff and free under the m.f.n.

Q. And the duty on bituminous coal was reduced from 75 cents to 50 cents?—A. To 50 cents.

By Mr. Macdonnell:

Q. Did I correctly understand you to say, Mr. McKinnon, that of our total exports to the United States, 90 per cent—not of those dutiable but 90 per cent of the total—are assured to us by the methods you mention?—A. Dr. Isbister supplied that figure. I do not know if it included “free” and “dutiable”—but certainly it applies to the “free” items; there is no question as to that.

Dr. ISBISTER: 90 per cent of the over-all total.

By Mr. Macdonnell:

Q. Does that mean that beef cattle is one of the exports that comes in the 10 per cent non-secured?—A. No.

Q. I did not think it was that.—A. By ‘secured’ all we mean is that the concession is in a schedule and the schedule is bound for three years. If they were to take action under the revised Trade Agreements Act to withdraw the concession, then it is not secured in quite the same sense of the word.

Q. Well, I do not want to press this, but as I listened to your answer to Mr. Harkness, I was not quite able to square it with what you said before; and I did not quite fully understand because it seemed to me you indicated to him that the thing was pretty well at large—that all bets were off and we would make a new deal. You emphasized the fact that we could retaliate if we wanted.—A. I did not mean to convey that impression. Beef cattle, along with all the other things that make up the 90 per cent, are included in the schedules to the agreements. Those rates of duty are bound against increase for another three years. It was in that connection I said it was unthinkable, to my mind, that anything would happen to that item but I did not want to go on record as saying that in any case nothing could happen to it. If the President, under this new legislation were to decide that, regardless of obligations under the General Agreement, he was going to restrict our concession on beef cattle, then we have the right of reprisal, of retaliation, by the withdrawing of concessions we would deem to be compensatory—although, as you said, that would not help beef cattle producers.

Mr. CARROLL: It would be a good thing for poor devils like myself who have to pay so high for their meat at the present time.

Mr. REISMAN: I was just wondering if it was worth adding that nothing the United States can do by way of its own domestic legislation alters in any way their obligations under the General Agreement.

The WITNESS: It does not alter their commitments under the General Agreement.

Mr. REISMAN: In other words, regardless of what their legislation says their President might do, it does not change their obligations to us by virtue of items included in the schedules. It not only applies to beef cattle but to all items in the schedule. Nobody can guarantee that a country under no circumstances will abrogate their obligations.

The WITNESS: That is what it involves; and that is what I mean in using the word 'secured'.

Mr. MACDONNELL: Well, you pointed out that was the substantial difference between the Smoot-Hawley and Fordney-McCumber situation—where we had no umbrella of any kind?

The WITNESS: In those times, what happened was purely a unilateral act by the other country and there was not much we could say or do about it. Now, we have obligations or commitments bound to us for another three years and, therefore, I say it would be a most serious step for the United States to contemplate withdrawal of concessions which would in effect constitute violation of her undertaking.

By Mr. Carroll:

Q. Have Canadian rails a preference in South Africa, New Zealand, and Australia?—A. You mean street railway rails?

Q. Yes? I remember there was quite a commotion in the industry some years ago—around 1929—when those three countries cancelled that preference. I never knew the reason but it did look to me as if it was a little bit of bad faith on the part of some people.—A. All Dr. Isbister can say is that they were not discussed at Torquay. I remember, myself, in the 1920's that we had very large exportations of rails—particularly to South Africa.

By Mr. Macdonnell:

Q. You were, I think, going to give us a figure, notwithstanding the qualifications that have been made since, showing the amount of trade we did with other countries—at any rate with any commodities that were subject to a preference. Do not let us say the preference was responsible, but would there be readily available a figure showing how large the commodities in the preference bulked?—A. Are you thinking in United Kingdom only or other countries?

Q. I was thinking of others but mainly the United Kingdom.—A. Trade and Commerce would have to prepare such a figure. I have not got such a figure off-hand.

Mr. ISBISTER: I wonder if I might make a comment on the structure of this trade without attempting to reconstruct the figures and as the result of that we might be able to go ahead without them.

The WITNESS: In respect of Mr. Macdonnell's question, you are giving the background.

The CHAIRMAN: Mr. Isbister, before you give that general statement would not the inter-Empire trade that takes place actually take place under the preference?

Mr. ISBISTER: I was going to say—

The CHAIRMAN: That is the point.

Mr. MACDONNELL: Could I just interject this? I take it that what we are groping for, and maybe it is not to be found, is to know whether if the situation changed so that you have the United States with large surpluses they could be pretty realistic in finding ways of not suffering too much themselves. Now, all I want to clear my mind on is, are there things which we should be doing outside the United States to try to broaden the base of our trade and, incidentally, I understand there have been recent visits, either formal or informal, from trade representatives of other commonwealth countries here in the past short while.

The WITNESS: Dr. Isbister is on the committee that met those groups whereas I am not, and I think he could give you information on that.

Mr. ISBISTER: I would like to make a few comments, first about the United Kingdom, Mr. Chairman. If you will look at the commodities which have always accounted for a very large part of our sales to the United Kingdom you will find these are the products, these are raw materials, food stuffs, products of agriculture, forestry, mining. In other words, base metals, including aluminium, zinc, that kind of thing. In the wood products field, lumber, pulp and paper; in the foodstuffs field, a large number of products of which the largest single one has been wheat, live stock, bacon; in the dairy products field, cheese, processed milks, and then apples. Now, these things, as I said before, have always been and are today of their kind in almost every case the cheapest and highest quality product in the world market. In other words, we are singularly fortunate that our export products are things which are quite easily come by at competitive prices and at good qualities elsewhere. Now, the market for these products has always been a more attractive market in the United Kingdom inclusively because of the existence of the preference which you might say and always giving the supplier a chance to obtain a higher price for his product under the preferential tariff in the United Kingdom, but in this whole field of food stuffs, minerals, and materials, papers, lumber, it is very difficult to say if the existence of the market itself has ever existed on account of the tariff preference.

Mr. HARKNESS: That would not be true of bacon, would it?

Mr. ISBISTER: Well, you may be getting close to the margin of my generalization but I think that even in that case that would even stand up.

Mr. RICHARD: In the case of bacon, Dr. Isbister, our price would be higher than certainly the price that the United Kingdom is paying for bacon on the continent or from other commonwealth countries.

Mr. ISBISTER: I am thinking of the fact that during the war or since the war, rather, during the period in which the United Kingdom has attempted to reduce her dollar purchases to an absolute minimum that she has in fact returned to the Canadian market year after year for quantities of bacon. In other words, these generalizations I have made is that we do have exportable surpluses which are very much in demand at prices which buyers in fact have been eager to pay. These generalizations are difficult in recent years because the extreme volatility of the United Kingdom market has been demonstrated. Her shortage of dollars has forced her to eliminate purchases quite arbitrarily.

Mr. HARKNESS: I am sorry to have changed your train of thought but it seemed to me that that generalization had not applied over the course of the years.

Mr. ISBISTER: The field in which preferences have undoubtedly been of a greater assistance to our exports has been the field of miscellaneous manufactured products of many kinds. You might refer to those industries which are based in Ontario and Quebec, as producers of footwear, and textile field, and household appliances, but in this field Canadian manufacturers have never been able to compete in the United Kingdom market as effectively as they have in other parts of the commonwealth, and that leads me to make a few remarks about other countries in the commonwealth. My own extemporaneous conclusion about the value of the preferential market in the United Kingdom is that it has never been essential to us in the raw materials or foodstuffs field except in relation to particular items. In the manufactured goods field while it has made a preference available to Canadian manufacturers in a wide range of products, even with the preference traditionally Canadian manufactures have found it difficult to compete in the United Kingdom which in itself is the homeland of miscellaneous manufactures, so that while you could look at the preference on paper and see that undoubtedly in many fields they have accounted for additional business in the United Kingdom market even I would not arrive at

the conclusion that these have been the basis of the bulk of our trade or have been the *sine qua non* of the bulk of our trade.

Mr. MACDONNELL: Before you pass on, could I ask you one question? Am I right in thinking that there have been times when the Argentine was quite a threat to our market? I realize the difference of quality enters in there. Am I wrong in thinking that years ago the Argentine, which I think does not have to store wheat as we do, were quite a threat to us and that there were periods during which the preference was effective.

Mr. ISBISTER: I am sure that is true, sir, and particularly in the 1930's, during the period when prices competition was very severe.

Mr. HARKNESS: Argentine does not have a long rail haul for her produce as we have, and that gives them an advantage on cattle, wheat, and so forth, apart from advantageous climatic conditions.

Mr. ISBISTER: In relation to the overseas commonwealth, and Empire countries which I would like to mention just very briefly, I am sure that more Canadian exporters have started in the export business in relation to the British West Indies perhaps than to any other parts of the overseas colonial territories, and I suspect that that probably is true of the commonwealth as well, but it is true that we have received preferences on a great many of the manufactured foodstuffs and processed raw materials in colonial territories along the same lines as we have received in the United Kingdom, and, just as in the United Kingdom, these preferences have undoubtedly assisted the sale of our basic commodities in the sense of giving us a price advantage. In other words, if times were bad and sales depended on small margins of price competition, then the preferences might assist a great deal, but the generalization remains true over the years, and the larger number of Canada's exportable raw materials and foodstuffs that over the long run were in a very competitive position in relation to other countries in our major fields of produce of this kind of thing. On the other hand the people who have depended for an export market on colonial overseas territories of the United Kingdom and on the other commonwealth countries are to a very large extent manufacturing industries and you can name a very long list of manufactures, including textiles, piece goods, processed foods of many kinds, household appliances including stoves refrigerators, kitchenware, washing machines, and, then, automobiles to which Mr. McKinnon referred which have found substantial export markets overseas in Australia, India, all the commonwealth countries and markets of genuine value in the colonial overseas territories. Now, not only have manufacturers found export markets in these overseas territories but the generalization I think would stand up with regard to the decade of the 1930's that practically speaking their only overseas markets were found in the other commonwealth countries and in the colonial territories of the United Kingdom where they received preferences. This was the basis of Canadian export of manufactured goods during the 1930's. Now, these are, of course, the people who have been terribly hurt by the import restrictions which have been part of the dollar saving programs of the United Kingdom and sterling area countries, the thing that has hurt us more than anything else, I believe, has been the exclusion of Canadian manufactures from traditional markets in the British West Indies, in other colonies, in Australia, New Zealand, and South Africa.

Now, if you look for the area in which serious injury has been effected in recent years here it is: The miscellaneous manufactured goods market. Now, this was the generalization, just a few comments on generalities that I wanted to help extemporaneously, in a desire to be helpful. My rough conclusions would be just to repeat briefly that in the past our market for manufactured goods in parts of the British Empire and commonwealth outside the United

Kingdom have not only been assisted by the preferential system but indeed the market was created and based upon the preferential system.

Mr. MACDONNELL: And what about motor cars?

Mr. ISBISTER: Motor cars and many other manufactured goods, but a large number of these. On the other hand in our largest export fields are materials and foodstuffs; products of farms, mines, forests. While it is undoubtedly true that the system of preferences in the United Kingdom and in the colonies has put our products into a stronger position in some times more than others, at no time I suspect could it be claimed that the market depended upon the existence of a professional system.

The WITNESS: Is it not true, too, that many of our best producers of miscellaneous goods who had built up very considerable markets in commonwealth areas, found themselves finally either forced to abandon that market or to begin manufacturing operations in one or other of the commonwealth countries?

Mr. ISBISTER: That has happened.

The WITNESS: I am thinking, for example—and perhaps I should not mention the firms—of washing machine manufacturers in Canada who found that, for one reason or another and despite the preference, it was prudent for them to open a branch plant in the United Kingdom or in South Africa or in Australia. In many cases they did it and I believe are doing quite well in those branch plants in their adopted homes.

The CHAIRMAN: And the exchange problem?

Mr. HARKNESS: From all that it would perhaps be a fair generalization to say that the British preferences have been of great value to us both as far as the basic industry is concerned as well as the manufacturing industries when there was a plentiful supply of goods; in other words, when there was a buyer's market. But when you get into a situation as exists today, a seller's market, they are of much less value.

Mr. ISBISTER: Well that is even a little more complex than that because a year or two ago we were approaching a position where there was a very plentiful supply of all kinds of goods but the United Kingdom and sterling area countries were still saving dollars and the preferential system did not help us, but to your statement has to be added additional the fact that preferences are of assistance to us perhaps most in a period when there is a glut of goods and therefore price competition becomes important; secondly, in a period that the United Kingdom and the sterling area have their markets open to us.

Mr. HARKNESS: What I was coming to is that these preferences may, in the future, if exchange defects get ironed out and if we get into a situation where you have a buyer's market throughout the world again, be of very great value to us once more.

Mr. ISBISTER: They may well be and of course that is the aim of everyone involved in negotiations in this field.

Mr. MACDONNELL: Following that I would like to ask a question, going back to something Mr. McKinnon said a while ago. You understand, Mr. McKinnon, in the case of Australia there was an entirely new situation set up quite apart from exchange, that they were just going to do things for themselves. Now, I would like to ask Dr. Isbister, before we get into exchange difficulties, how did we find our trade in the British colonies? Did we find it difficult to go in there, that Britain had the inside track, or did we find that we got a pretty fair run for our money? I had a little experience in the case of Jamaica some twenty years ago when I was in business. We eventually did get in and sold some rails from Sydney, but we had difficulty. Now, what is the general experience?

Mr. ISBISTER: The best way to answer that question, sir, would be to, I think, repeat some of the views of our trade commissioners in those parts of the world because as far as I know all of our trade commissioners, those in the British West Indies, in Malaya and in Singapore and in other parts of the overseas colonial territories are all of the impression that if only import controls could be relaxed or removed so far as they affect Canadian goods that traditional markets are available to us to be re-established in those parts of the world. That is to say, in very many fields the Canadian goods established their reputation, their quality, and the people in these countries would very much like to be able to buy them again.

Mr. LAING: Dr. Isbister, how many years after we wrote the agreements in 1932 could we assume that the full effect of the preferences were felt? Three years? Four years? The Imperial preferences were written in 1932 and were hailed as being of immense value to Canada, and I agree. At that time we, because the world trade had more or less come to a standstill, decided to trade within ourselves. But how many years elapsed before the full effect of the Imperial preferences became felt in Canada? Shall we say three years?

Mr. ISBISTER: I am afraid you are addressing the question to the wrong person, sir, because at that time I was still a student. I would like to say though at that time unemployment was becoming worse and worse, the world situation deteriorated, trade instead of growing, diminished, and I do not honestly believe that anybody could examine the trade figures of those days and tell you how long it took the Imperial preference to achieve its full effect but to the extent they had a constructive effect it was a case of building up where the totals were continually falling.

Now, I know that has been a subject of study and inquiry.

Mr. LAING: They were hailed in 1932 as a life saver. I want to know what kind of a life saver they were. What was the value of our exports to the United Kingdom and our imports therefrom and the fraction of it to the trade which we have had for many years since—both export and import. It would be a very small fraction I suggest, but we might get those figures.

Mr. MACDONNELL: I think that would be a very interesting figure.

The WITNESS: Those figures could be obtained.

Mr. MACDONNELL: I had an idea, but it is only an impression—and I agree with you it was an emergency situation—that the improved results were rather rapid.

Mr. LAING: They were of great benefit to British Columbia lumber, I remember.

Mr. FULTON: In connection with a debate in the House sometime ago—I did get figures. I have not got them in my head but I remember the trend and they were placed on the record. I am talking now about export trade with the United Kingdom, export trade with commonwealth countries other than the United Kingdom, and then our trade with all countries. I think in the first two cases the increase was immediately evident in 1933 and it continued to rise from 1933 on. In the other cases I think the increase was not evident until 1934 when the figures showing dollar value of our exports began to rise again.

They were placed on the record at that time and no one took exception to them or said they were inaccurate. I made a statement which was not contradicted, that after 1932 almost immediately the volume of exports began to rise again whereas up to 1932, over the last few years before 1932, they had shown a constant decline. I will get those figures.

Mr. ISBISTER: One of the historical facts which I suppose should be borne in mind in relation to such a study is that a housing boom started in the United Kingdom in the early 1930's, at a time when almost everything else in the world

was going in the other direction—declining. What increase in sales of lumber would be specifically attributable to the housing boom and what to the preference would be a matter of debate?

The CHAIRMAN: Mr. Fulton and Mr. Laing are still here and as we have a few minutes, Dr. Richards might place on the record the material which he prepared in regard to apples.

CANADA—EXPORTS

Calendar year	Belgium	Netherlands	Brazil	France	Norway	U.K.	U.S.A.
Thousand bushels							
1937.....	60	66	12	12	0	5,514	9
1938.....	36	6	72	15	2	7,422	36
1939.....	108	66	81	18	.....	4,281	39
1946.....	.....	.....	108	.....	.....	3,453	915
1947.....	.....	.....	216	.....	.....	1,344	1,419
1948.....	9	.....	276	.....	.....	.....	1,545
1949.....	22	.....	42	.....	.....	1,580	1,637
1950.....	1	.....	.....	.....	.....	2,289	2,362

UNITED STATES—EXPORTS

Calendar year	Belgium	Netherlands	Brazil	France	Norway	U.K.	Canada
Thousand bushels							
1937.....	422	469	133	885	44	3,345	211
1938.....	1,138	1,134	130	1,450	199	4,594	172
1939.....	423	1,070	135	1,234	59	3,411	128
1946.....	151	8	135	.....	0	348	119
1947.....	222	38	78	0	0	1,361	425
1948.....	144	12	42	.....	0	0	64
1949.....	184	25	51	.....	0	.....	186
1950.....	234	130	228	.....	.....	831	104

NOTE: 0 = Less than 500 bushels.

SOURCES: Canadian and U.S.A. trade statistics.

U.S.A.—APPLES

PRODUCTION AND UTILIZATION

Calendar year	Production (commercial)	Utilization Fresh		Processed, used on farms and waste
		Domestic	Export	
Thousand bushels				
1937.....	153,169	90,222	7,901	55,046
1938.....	105,718	63,785	11,761	30,172
1939.....	139,247	75,460	8,379	55,408
1946.....	119,410	73,510	2,864	43,036
1947.....	113,041	72,272	4,553	36,216
1948.....	88,407	61,246	2,138	25,023
1949 (1).....	133,742	78,148	1,853	53,741
1950 ²	120,499		3,080	

(a) Preliminary.

SOURCE: U.S.A. Agricultural Statistics.

CANADA—APPLES

PRODUCTION AND UTILIZATION

Crop year beginning July 1	Production	Utilization Fresh		Processed
		Available for domestic consumption	Export	
	Thousand bushels			
1937.....	15,172	6,231	6,724	2,587
1938.....	15,667	5,912	8,463	1,463
1939.....	16,429	6,915	4,021	5,641
1946.....	19,282	8,229	6,006	5,409
1947.....	15,619	9,498	2,144	4,199
1948.....	13,404	7,677	2,848	2,982
1949.....	18,151	9,102	5,441	3,816
1950 ⁽¹⁾	16,091	9,155	3,664	3,376

(1) Preliminary.

SOURCE: Dominion Bureau of Statistics.

CANADA
TRADE WITH U.S.A. IN APPLES

Calendar year	Exports to U.S.A.	Imports from U.S.A.
	Thousand bushels	
1937.....	9	211
1938.....	36	172
1939.....	39	128
1940.....	690	97
1941.....	99	56
1942.....	459	336
1943.....	303	103
1944.....	1,827	16
1945.....	807	27
1946.....	915	119
1947.....	1,419	425
1948.....	1,545	64
1949.....	1,637	186
1950.....	2,362	104

SOURCE: D.B.S. Trade of Canada.

APPLES

PRODUCTION IN SPECIFIED COUNTRIES, AVERAGES 1935-39 AND 1940-44, ANNUAL 1947-50

Continent and country	Average		1947	1948	1949	1950 ⁽¹⁾
	1935-39	1940-44				
	Thousand bushels					
NORTH AMERICA						
Canada.....	14,560	13,459	15,619	13,404	18,151	16,091
United States.....	127,311	113,787	113,041	88,407	133,742	120,499
EUROPE						
Belgium.....	5,435	6,103	13,779	3,215	18,372	13,779
Denmark.....	2,818	4,593	6,430	11,482	6,889	12,860
France:						
Dessert and cooking	10,499	9,724	16,369	13,411	16,796	18,422
Cider.....	153,973	114,570	73,412	72,323	118,118	192,000
Germany:						
Western Zone.....	36,116	34,099	38,682	24,200	27,900	49,700
Eastern Zone.....	10,788	7,676	8,618	5,400	6,200	11,100
Italy.....	12,923	14,786	22,206	17,379	30,948	23,483
Netherlands.....	3,631	4,048	10,978	7,946	15,157	12,630
Norway.....	1,080	798	1,188	1,654	717	2,704
Sweden.....	4,770	3,809	5,603	8,038	7,762	9,691
Switzerland.....	16,452	25,353	17,453	29,854	11,942	30,313
United Kingdom:						
Dessert and cooking	10,597	13,831	27,753	17,873	24,005	21,467
Cider.....	3,427	3,256	4,951	3,948	5,026	5,119

⁽¹⁾ Preliminary.

SOURCE: United States Department of Agriculture, "Foreign Crops and Markets", April 16, 1951.

The CHAIRMAN: Would you care to make a general statement which would perhaps be helpful?

Dr. RICHARDS: Mr. Fulton requested a statistical tabulation showing exports of Canadian apples, before and after the Geneva agreements, to countries which had granted tariff concessions on apples at Geneva in 1947. He is interested in knowing the effect of the tariff concessions on apple exports.

For the tabulation I have selected seven countries which granted tariff concessions at Geneva. They are: Belgium, the Netherlands, France, Norway, Brazil, the United Kingdom, and the United States. Trade in apples with other countries which made concessions was insignificant before and after Geneva, and they have not been included in this tabulation. For this presentation I shall deal with those countries in groups. Detailed statistics for individual countries can be obtained in the record by any member of the committee.

In the three years, 1937, 1938, and 1939, Canada exported to Belgium, the Netherlands, France, and Norway, a total of 399,000 bushels or an average of 133,000 bushels annually. I omit the war years 1940 to 1945. In 1946 and 1947 there were no apples exported from Canada to the four named countries. The Geneva tariff concessions became effective on January 1st, 1948, and, in 1948 Canada exported 9,000 bushels to Belgium. In 1949 exports to Belgium amounted to 22,000 bushels, and 1,000 bushels went to Belgium in 1950. No apples were exported to The Netherlands, France, or Norway in this period. In fact, no apples have been shipped from Canada to those countries since 1939.

The CHAIRMAN: Well, gentlemen, we have ceased to have a quorum. We will meet either Friday of this week or early next week.

The committee adjourned.

Doc
Canada: Banks and
Standing Committee No. 1351
SESSION 1951

HOUSE OF COMMONS

CA 13
BN
STANDING COMMITTEE

ON

BANKING AND COMMERCE

CHAIRMAN—MR. HUGHES CLEAVER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 6

TORQUAY NEGOTIATIONS

THURSDAY, JUNE 14, 1951

TUESDAY, JUNE 26, 1951

WEDNESDAY, JUNE 27, 1951

WITNESS

Mr. M. E. Corlett, Ottawa, Counsel for the Canadian Importers and Traders Association Inc.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1951

REPORT TO THE HOUSE

THURSDAY, June 28, 1951.

The Standing Committee on Banking and Commerce begs leave to present the following as a

TENTH REPORT

1. Pursuant to the Order of Reference of the House, dated Monday, May 21, 1951, your Committee has considered the subject matter of the Torquay negotiations, namely, The Final Act of Torquay; The Decisions Agreeing to Accession; the Torquay Protocol to the General Agreement on Tariffs and Trade; the modifications of the Schedules to the General Agreement on Tariffs and Trade resulting from the Torquay negotiations, and the Declaration on the Continued Application of these Schedules.

2. Your Committee has heard the following witnesses:

Mr. H. B. McKinnon, Chairman of the Tariff Board;

Mr. W. J. Callaghan, Commissioner of Tariffs;

Dr. C. M. Isbister, Director, International Trade Relations Branch,
Department of Trade and Commerce;

Dr. E. A. Richards, Principal Economist, Department of Agriculture.

3. Your Committee has also heard and received representations on behalf of the Canadian Importers and Traders Association Inc., through Mr. M. E. Corlett, of Ottawa, Ontario, and was in communication with the Canadian Exporters' Association, the Canadian Chamber of Commerce and the Canadian Manufacturers' Association.

4. The deliberations of the Committee brought out the fact that, while preferences within the Commonwealth were not of any great significance when we have a seller's market, on the other hand, in a buyer's market they have been in the past and could easily again be of vital significance. The Torquay agreement, as was the Geneva agreement, is based upon the principle that no new preferences will be granted and no existing preferences will be widened.

Your Committee recommends that in further trade negotiations with other countries, the Government should follow the existing practice of not narrowing or reducing the margin of preference without receiving in return full and adequate compensation for such action.

Your Committee is of the opinion that further study of the Torquay trade agreement should be made after a sufficient time has elapsed to accurately assess its actual trading results, and with this in view, recommends that the subject matter of the Torquay negotiations should again be referred to the Standing Committee on Banking and Commerce of the House at the 1952 session of Parliament.

5. A printed copy of the Minutes of Proceedings and Evidence adduced is tabled herewith.

All of which is respectfully submitted.

HUGHES CLEAVEI
Chairman

MINUTES OF PROCEEDINGS AND EVIDENCE

THURSDAY, June 14, 1951.

The Standing Committee on Banking and Commerce met at 3.30 o'clock p.m. and having disposed of other business resumed its study of the Torquay negotiations at 4.30 o'clock p.m. Mr. Cleaver, Chairman, presided.

Members present: Messrs. Ashbourne, Balcom, Bennett, Breithaupt, Cannon, Carroll, Crestohl, Dumas, Fleming, Fraser, Fulford, Gingras, Harris (*Danforth*), Laing, Leduc, Macnaughton, Ward.

In attendance: Mr. M. E. Corlett, Ottawa, Counsel for the Canadian Importers and Traders Association Inc.

Mr. Corlett was called and presented a brief from the Canadian Importers and Traders Association Inc. on the Torquay negotiations, copies of which were tabled for distribution.

The advisability of inviting representations from other associations was discussed.

It was agreed that invitations be extended, through the chairman of the Committee, to the Canadian Exporters' Association, Toronto; Canadian Chamber of Commerce, Montreal, and the Canadian Manufacturers' Association, Toronto.

At 5.40 o'clock p.m. the Committee adjourned to meet again at the call of the Chair.

TUESDAY, June 26, 1951.

The Standing Committee on Banking and Commerce met at 4.00 o'clock. Mr. Cleaver, Chairman, presided.

Members present: Messrs. Ashbourne, Bennett, Breithaupt, Crestohl, Dumas, Fleming, Fraser, Fulton, Gingras, Laing, Leduc, Macdonnell, Welbourn.

(The Committee considered Bill No. 354 (Letter V-11 of the Senate), An Act to incorporate First Canadian Reinsurance Company, and agreed to report it with amendment. Verbatim evidence was not recorded with respect to the said Bill.)

At 4.15 o'clock the Committee resumed its study of the Torquay negotiations.

In attendance: Mr. W. J. Callaghan, Commissioner of Tariffs, Department of Finance; Dr. C. M. Isbister, Director, International Trade Relations Branch, Department of Trade and Commerce; and Dr. E. A. Richards, Principal Economist, Department of Agriculture.

The witnesses were retired.

The Chairman informed the Committee that, pursuant to the instructions of the Committee at the last meeting, he had been in communication with the Canadian Exporters' Association, the Canadian Chamber of Commerce and the

Canadian Manufacturers' Association, and that none of these associations wished to attend before the Committee or to present briefs at this time. It was agreed that the replies received from each of these be placed on the record.

The Committee then proceeded to consider a draft report submitted by the Chairman, viz.

DRAFT REPORT

The Standing Committee on Banking and Commerce begs leave to present the following as a

TENTH REPORT

1. Pursuant to the Order of Reference of the House, dated Monday, May 21, 1951, your Committee has considered the subject matter of the Torquay negotiations, namely, The Final Act of Torquay; The Decisions Agreeing to Accession; the Torquay Protocol to the General Agreement on Tariffs and Trade; the modifications of the Schedules to the General Agreement on Tariffs and Trade resulting from the Torquay negotiations, and the Declaration on the Continued Application of these Schedules.

2. Your Committee has heard the following witnesses:—

Mr. H. B. McKinnon, Chairman of the Tariff Board;

Mr. W. J. Callaghan, Commissioner of Tariffs;

Dr. C. M. Isbister, Director, International Trade Relations Branch, Department of Trade and Commerce;

Dr. E. A. Richards, Principal Economist, Department of Agriculture.

3. Your Committee has also heard and received representations on behalf of the Canadian Importers and Traders Association Inc., through Mr. M. E. Corlett, of Ottawa, Ontario, and was in communication with the Canadian Exporters' Association, the Canadian Chamber of Commerce and the Canadian Manufacturers' Association.

4. A printed copy of the Minutes of Proceedings and Evidence adduced is tabled herewith.

All of which is respectfully submitted.

Discussion followed as to whether the Committee should recommend that the subject matter of the Torquay negotiations be referred to a committee at a future session. It was agreed that the Chairman telephone the associations concerned and get their views as to the time that must elapse before sufficient factual evidence can be produced to accurately assess the actual trading results of the trade agreements.

At 5.00 o'clock p.m. the Committee adjourned to meet again at 4.00 o'clock p.m., Wednesday, June 27, 1951.

WEDNESDAY, June 27, 1951.

The Standing Committee on Banking and Commerce met at 4.00 o'clock p.m. Mr. Cleaver, Chairman, presided.

Members present: Messrs. Ashbourne, Balcom, Breithaupt, Carroll, Cote (St. Jean-Iberville-Napierville), Crestohl, Dumas, Fleming, Fraser, Gingras, Laing, Macdonnell (Greenwood), McMillan, Picard, Smith (York North).

The Committee resumed consideration of the draft report submitted by the Chairman, and the question of recommending to the House that the subject matter of the Torquay negotiations be referred to a Committee at a future session.

The Chairman informed the Committee that he had, pursuant to instructions of the committee, been in touch with the Association interested and had been advised that some four or five months must elapse before the trade pattern resulting from the agreements would be evidenced, at which time the actual results should be apparent.

A draft of a proposed recommendation was tabled for distribution, as follows:

Your committee is of the opinion that further study of the Torquay trade agreement should be made after a sufficient time has elapsed to accurately assess its actual trading results, and with this in view, recommends that the subject matter of the Torquay negotiations should again be referred to a Committee of the House at the 1952 session of Parliament.

After discussion and on the Motion of Mr. Fraser:

Ordered,—That the words "a Committee" in the penultimate line be deleted and "The Standing Committee on Banking and Commerce" be substituted therefor, and that such recommendation be incorporated in the draft report.

The Chairman then tabled a suggested amendment, by way of addition to the draft report, which had been prepared following a suggestion of Mr. Macdonnell (*Greenwood*) at the last meeting and following consultation with Mr. H. B. McKinnon, chairman of the Tariff Board, as follows:

The deliberations of the Committee brought out the fact that, while preferences within the Commonwealth were not of any great significance when we have a seller's market, on the other hand, in a buyer's market they have been in the past and could easily again be of vital significance. The Torquay agreement, as was the Geneva agreement, is based upon the principle that no new preferences will be granted and no existing preferences will be widened.

Your Committee recommends that in further trade negotiations with other countries, the Government should follow the existing practice of not narrowing or reducing the margin of preference without receiving in return full and adequate compensation for such action.

Following a discussion on the proposed amendment, and the question having been put, it was unanimously agreed to.

On Motion of Mr. Laing:

Resolved,—That the draft report as amended be adopted.

At 5.00 o'clock p.m. the Committee adjourned to meet again at the call of the Chair.

R. J. GRATRIX,
Clerk of the Committee

EVIDENCE

JUNE 14, 1951.

The CHAIRMAN: Gentlemen, in connection with the Torquay Trade Agreements, Mr. Corlett wishes to present a brief from the Canadian Importers and Traders Association Incorporated.

Mr. BREITHAUP: Is that in connection with the Torquay Trade Agreements?

The CHAIRMAN: Yes; he is here to present a brief from the association I have just mentioned. It is convenient for him to present it today if the committee will receive it today. Is it the pleasure of the committee to receive this presentation now?

Agreed.

Mr. M. E. Corlett, Barrister, City of Ottawa, called:

The WITNESS: Mr. Chairman and honourable members, I do not know what procedure you would like me to follow. On behalf of the association I do appreciate the opportunity that the chairman and honourable members have presented to us in permitting me, as the Ottawa counsel for the association, to present this brief. Naturally, as an association of importers we are, generally speaking, in favour of what the government has done at the Torquay Conference. The brief which we have prepared and which has been distributed to members in the form of mimeographed copies, is not a lengthy one.

As I say we are in accord with what was done at Torquay but in the brief we make certain comments pertaining to the subject of Canada's foreign trade. If it is the wish of honourable members I will present the brief of the Canadian Importers and Traders Association Incorporated:

The Canadian Importers and Traders Association has a membership of some four hundred firms engaged in the import side of Canada's foreign trade. Members are located from Halifax to Vancouver with the largest concentration in Toronto and Montreal. It is the only organization which concerns itself solely with import matters and is conceded to be the voice of the import trade of Canada.

This Association wishes your committee to know that it approves generally the agreements entered into by the Canadian government at the Torquay conference.

Canada is a country of vast resources and relatively small population and the Canadian economy depends to a very large extent on our ability to export our natural products and our manufactured goods. If we are to export, we must import and, therefore, Canada must be vitally interested in its foreign trade. In 1950 Canada's foreign trade amounted to \$6.3 billion and this figure represents 30 per cent of the gross national product of our country.

Anything that will increase the physical volume of importation of goods into Canada must have the effect of helping the Canadian government fight the current inflationary trend.

Part of the increasing volume of imports into Canada, as reflected in the current import figures, is the direct result of the government's defence program and, therefore, it can be said that imports are contributing to the national defence of Canada.

Criticism has been directed against the Torquay Agreements with regard to their apparent lack of success in widening our markets in British commonwealth countries. As importers we feel that this criticism is ill founded since commercially Canada is part of the western hemisphere and the U.S.A. is our largest customer as well as our largest supplier. While we are very much in favour of increasing trade with commonwealth countries it must be realized that anything which will increase our trade, with the United States and other nations in the western hemisphere is also of great importance. We are entirely unable to agree with any criticism of an arrangement which makes the entry of our goods into the United States easier and at the same time reduces the cost of American goods imported into Canada.

Canadian industrial production has increased tremendously in the last decade, both in size and in efficiency and we cannot see, in view of this fact, that Canadian industry needs the same degree of tariff protection today as was the case when Canada was smaller and less developed industrially. In any event any reduction in the Canadian tariff since 1935 has been counterbalanced and more than counterbalanced by the rapid growth of the Canadian living standard and the greatly increased Canadian domestic market.

We heartily approve the stabilizing effect of the extension of the Geneva and Annecy rates of duty as modified by the Torquay rates for the next three years. The stabilizing effect on international trade at this particular time in the world's history is bound to have far reaching and beneficial effects. By way of contrast we have only to remember the chaotic conditions in the 1930's in the field of international trade which was so dramatically reflected in the low national income and mass unemployment obtaining in Canada during this period.

It has been argued that the Torquay Agreements will increase Canada's unfavourable balance of trade with the U.S. as reflected by the returns for the first four months of 1951. There is nothing to prove that this short term trend will continue throughout the year and in this connection it must be remembered that this apparent unfavourable balance is offset by large capital imports into Canada which will be used in expanding and developing Canadian resources. In earlier times during Canada's history there have been other periods when there were large capital imports into Canada and at the same time an unfavourable balance of merchandise trade, but these periods have been successfully survived and have increased the prosperity of our country.

New countries have been added at Torquay which were not represented at Geneva and Annecy. This seems to be a proper move in the direction of widening the scope of this international policy of stabilizing international trade at a high level.

Our feeling is that the Torquay Agreements might well have gone further in the way of freeing international trade. According to our calculation the overall average reduction on the comparatively small number of tariff items affected is about 4 per cent. If articles not produced in Canada (such as chestnut cream, bonito in oil, California redwood), medicinal preparations and goods used in agriculture or fisheries are disregarded, the average overall percentage of reduction becomes much smaller.

We feel most strongly that the long range solution of the world's economic problems depends on the freest possible multilateral world trade.

This is signed by H. C. MacKendrick, General Manager of the Association. With your permission Mr. Chairman, I shall table the original with you.

The CHAIRMAN: Have you any additional comments you wish to make, Mr. Corlett?

The WITNESS: No, sir, but if any of the members have questions I shall be delighted to do my best to answer them.

The CHAIRMAN: This organization is the only organization that asked to have the opportunity of making representations to our committee in regard to the Torquay trade agreements.

So far as I recall the remaining part of the work we have to complete is on the question of item No. 93, apples. Now, has any member of the committee any other matter to bring up?

By Mr. Laing:

Q. I assume that all the members of this Canadian Importers and Traders Association are interested in exports as well as imports, but the importers get priority. I imagine they are interested likewise in exports?—A. No, that is not so. I suppose you are thinking of the word "traders". There is a Canadian Exporters' Association, but this is an association of importers entirely.

Q. But it would be, in large measure, composed of firms interested in the export trade?—A. I would think only a few. I daresay there are a few firms who are into both fields but my best recollection is they are engaged in the importing business only.

Mr. FLEMING: I was going to ask if we could not hear from the Canadian Exporters' Association, whom we know, as this organization has been before us previously. Has any communication been sent to them offering them an opportunity to appear before the committee? Are they aware of our sittings and that we are prepared to hear them?

The CHAIRMAN: No communications were sent out to anyone by the clerk of the committee. The only letter received was one from Canadian Importers and Traders Association and that was answered, but we have not had any request from any other organization. Is it the wish of the committee that any other organization be notified?

Mr. LAING: Mr. Fleming has touched on a matter of a very great deal of interest to us. Here is an exporters association which stretches from the Atlantic to the Pacific. I think they could possibly supply us with a few new ideas, a few more than are contained in this brief. Do you remember we had a little discussion about the proposed Japanese peace treaty and whether or not Japan is going to be permitted to trade? Now, we are dealing a lot with them on the west coast, and this applies all across Canada. We are getting that trade at the present time through third hands, Americans, on account of the fact that we have not got a peace treaty yet. Now, when a peace treaty is signed Canadians will want to deal directly with the Japanese shippers and vice versa, and there is a good deal of information to be gained by discussing with them.

The CHAIRMAN: We still have time to advise anyone you want to advise.

Mr. BALCOM: I think they should be heard. Their head office is in Toronto.

Mr. FLEMING: The clerk could write them a letter indicating we would be willing to hear them if they wished to be heard, or anyone else.

By Mr. Balcom:

Q. Mr. Chairman, would it be fair to infer, from paragraph six of this brief, that the association indicates that it prefers importing from the United States rather than commonwealth countries? Could I draw that conclusion?—A. If we prefer importing from the United States?

Q. Yes.—A. No, that was not our intention. Perhaps the brief has been ambiguously worded there, but it is a fact that the bulk of the imports are coming from the United States. As far as the association is concerned, as far as importers generally are concerned, if it was possible to import more goods from the United Kingdom, say of a type Canadians wanted and competitive pricewise, they would be glad to do it.

Mr. FLEMING: Mr. Chairman, you asked about other associations. What about the Chamber* of Commerce? Perhaps they would be interested in a matter of this kind. I also think of the Canadian Manufacturers' Association. I suppose we can keep on going and get far afield. The Exporters' Association is a natural one to be heard in view of the fact we have heard the Importers Association which is represented here today.

Mr. BALCOM: You are suggesting the Canadian Chamber of Commerce?

Mr. FLEMING: I am wondering if the Canadian Chamber of Commerce would embrace any membership included in the Canadian Exporters' Association. What do you think, Mr. Chairman, about the Chamber of Commerce? Are they likely to include many people who would be represented in the Canadian Exporters' Association?

Mr. LAING: Is it not a fact that the Canadian Chamber of Commerce represents more the retail group in Canada?

Mr. BALCOM: They represent manufacturers, exporters, importers, ship-builders, farmers.

The CHAIRMAN: Since we are soliciting briefs I would think if we wrote the Canadian Chamber of Commerce we should also write the Canadian Manufacturers' Association.

Mr. FLEMING: I do not think we should solicit briefs. I think we should tell them that we are sitting and have heard a brief from the Canadian Importers Association and if they would like to submit a brief we would be glad to hear them. They will have to appear next week, though.

The CHAIRMAN: I will have letters written to the Canadian Chamber of Commerce, the Canadian Exporters' Association and the Canadian Manufacturers' Association.

Agreed.

Shall we adjourn?

Agreed.

JUNE 26, 1951.

The CHAIRMAN: Gentlemen, at our last meeting we adjourned without a quorum. I have asked the witnesses to return in the event that any member of the committee wishes to ask questions. Mr. Fleming was conducting an examination at the time of our adjournment and I telephoned him this morning and advised him of the meeting of the committee this afternoon. He said he had no further questions to ask.

Now, is there any other member of the committee who has any questions he would like to ask of the witnesses who are here? Very well, since there are no further questions shall we excuse the witnesses?

On behalf of the committee, gentlemen, we wish to extend our thanks to you. Would you please convey them to Mr. Hector McKinnon?

Mr. W. J. CALLAGHAN (Commissioner of Tariffs, Department of Finance): I shall be glad to, Mr. Chairman.

The CHAIRMAN: Now, gentlemen, on the instructions of the committee I wrote to the Canadian Exporters' Association, the Canadian Chamber of Commerce and the Canadian Manufacturers' Association and I have received replies. None of these bodies wishes to attend before the committee or present briefs. None of them has presented briefs; but they have all replied with letters. Is it the wish of the committee that those letters should go onto the record?

Mr. BREITHAUP: What is the purport of the letters?

The CHAIRMAN: I shall read them.

"Canadian Exporters' Association
20 Temperance Street
Toronto 1, Ont.

June 18th, 1951.

Mr. Hughes Cleaver, M.P.,
Chairman, Standing Committee
on Banking and Commerce,
House of Commons,
Ottawa, Ontario.

Dear Mr. Cleaver,

Your invitation that the Canadian Exporters' Association submit a brief to the Standing Committee on Banking and Commerce was received this afternoon, June 18th.

I am sure that your committee will understand that, in view of the fact that your committee has been discussing this matter for several weeks and concludes its enquiry in four days' time precludes us from preparing and submitting any brief that could receive the consideration of your committee by the time it completes its work this coming Friday.

It is doubtful also, if there has been sufficient time elapse since the announcement of the Torquay Agreements to properly assess the value to Canada which these agreements may bring, and for that reason it is doubtful if our assessment of the situation, as we see it now, would have much value in the deliberations of your committee.

Yours sincerely,

CANADIAN EXPORTERS' ASSOCIATION,

(Sgd.) John A. Marsh,
General Manager.

That is followed by a wire of June 20, which reads as follows:

Toronto, Ont., June 20, 1951.

Hughes Cleaver, M.P.,
Chairman, Banking and Commerce Committee,
House of Commons,
Ottawa.

Re Torquay. On May tenth I wired the Minister of Trade and Commerce as follows: "On behalf of the Canadian Exporters' Association please accept our hearty congratulations on the unexpected measure of success achieved by Canada's negotiators in a most difficult situation."

John A. Marsh,
General Manager.

Is it the wish of the committee that these letters be printed?

Mr. FLEMING: I think we might as well put all of those on the record.

The CHAIRMAN: I will take just one motion then. Is it the wish of the committee that I read the balance of them?

Mr. CRESTOHL: Before you go on with the subsequent documents, are the functions of this committee concluded now, or will this committee, whether in reconstituted form or in the same form, meet again in the fall? If so, the correspondence which you have just read indicates a desire, I think, for time to study the reports from Torquay. Perhaps in the fall a very important association such as that might be in a position to enlighten us a great deal on these Torquay negotiations. Therefore, I do not think we should close our file or close our contacts with that association but we should perhaps invite them, if they wish, to take more time to study the reports and submit a brief then.

The CHAIRMAN: It is the duty of the committee to make a report to the House before the end of the present session and our reference lapses when the present session prorogues.

Mr. CRESTOHL: Perhaps our report could have a paragraph added.

The CHAIRMAN: I have no instructions in this regard but I would anticipate that perhaps all three agreements would be referred to this committee next year.

Mr. FLEMING: I suppose they could be. It is a matter for decision by the House. I think there are points made in that letter. First is that about appearing before the committee and making recommendations. They say they have not had time to prepare now—only four days. The other thing here is that they do not think it is possible yet to form a judgment on the value of the agreements to Canada.

Mr. GINGRAS: They want time.

Mr. CRESTOHL: Yes, but they will have several months by October or November.

Mr. FLEMING: Yes.

The CHAIRMAN: My understanding is that the present session will be over immediately when we reconvene in the fall, and the committee would have no time to call witnesses before the present session ends. So, I would think we should simply make a report to the House quite similar to the report that was made on the Geneva Trade Agreement.

Mr. LAING: Mr. Chairman, let us go back to the thinking behind Mr. Fleming's initiation of this. I think he brought it up as a result of a letter we obtained from the Canadian Importers Association. Mr. Fleming then began to ask about other associations.

Mr. FLEMING: Yes.

Mr. LAING: I would rather think, and he can confirm this, that Mr. Fleming's idea was that we are antedating the making of an agreement by our negotiators at a conference rather than postdating it. I think you were also trying to establish the feeling among the organizations such as Canadian Manufacturers' Association, the Canadian Chamber of Commerce, the Exporters and Importers. You thought they should make their representations before our negotiators went to a conference.

I do not think you are going to gain a great deal by having them come down later on, as Mr. Crestohl suggests. The agreements are going to work for three years and the very nature of the agreements is such that our negotiators must have power to commit this government. The point was brought up by

Mr. Sinclair that as many manufacturers and others who are concerned should get in touch with the department and make their representations prior to such conferences. I think the greatest advantage, Mr. Fleming, would have come had their representations been before the agreement was reached rather than afterwards.

Mr. FLEMING: Quite, but I think this is a rather different matter again. I remember asking a number of questions of the witnesses as to what attempts had been made before Torquay to ascertain the feeling on the part of importers and exporters in Canada as to what they wanted our negotiators to do, and whether they were well armed with information that would be of benefit to importers and exporters.

The other idea of having the associations submit a brief to the committee would be simply to give the committee the benefit of their views on the agreements, just as the importers have.

Mr. LAING: So Mr. Crestohl's suggestion about having them come later would be more or less from the point of view of finding out how, in their opinion, the agreements are working—so that when we negotiate again we can make better agreements.

Mr. CRESTOHL: Not altogether. For example, our sittings here are *post facto*, so to speak, and also we are simply exploring and seeking in what way we can be helpful. If we were considering that feature, then, this committee should have been sitting before our team left for an international conference such as that at Torquay. If they were to receive the views of the country through its elected members before they sat in on that conference, it would be helpful; and I can understand they would follow along the lines that Mr. Fleming and Mr. Sinclair suggested—that they should invite these associations to give their views. But that is not the situation. We too are sitting after the reports are made and in our attempt to become enlightened on them we might be assisted by the opinion which men of commerce and industry in this country can give us.

Therefore, I do not think we should shut out their request to appear, although they do very subtly reprimand us and say we gave them only four days' time to appear—that is a very subtle reprimand in my opinion. I think it would be a bad decision and not in our best interests to shut the door on their giving us the benefit of their experience.

Mr. LAING: I am wondering how the Torquay agreements can be referred to this committee next year.

Mr. FLEMING: I suppose it could be done. Much would depend on the type of report we make now. If we wanted, and I am not suggesting that we should, we could say that we have not completed our review and we could suggest that it be referred to the committee at the fall session. That would be a very proper recommendation for inclusion in a report by the committee.

I suppose, broadly speaking, any date set by the committee would have to be of a tentative nature. I do not suppose there is anyone born yet who can see how, precisely, these agreements will work out. We can just form general conclusions about them. Everyone wants to see closer trade relations and we look upon close trade relations as contributing to peaceful relations. We want to have closer relations in a trading sense with many nations.

Mr. BREITHAUP: Would it be desirable before we decide on policy in that connection to hear the other letters if they are not too long? I think we are all interested in the viewpoints of the other organizations.

The CHAIRMAN: The Canadian Chamber of Commerce wrote me on June 20. They say:

THE CANADIAN CHAMBER OF COMMERCE

June 20, 1951.

Mr. Hughes Cleaver,
Chairman,
Standing Committee on Banking and Commerce,
House of Commons,
Ottawa.

Dear Mr. Cleaver:

We wish to thank you most sincerely for your kind invitation to make representations with regard to the recently concluded Torquay trade negotiations. Attached is a letter addressed to you and the members of the Banking and Commerce Committee signed by the Vice-Chairman of the Executive Council of the Canadian Chamber of Commerce.

Yours sincerely,

(sgd) W. J. Sheridan,
Executive Secretary.

This is the accompanying letter:

THE CANADIAN CHAMBER OF COMMERCE

June 20, 1951.

The Chairman and Members,
The Banking and Commerce Committee,
House of Commons,
Ottawa.

Gentlemen:

The Executive Council of The Canadian Chamber of Commerce believes that the reciprocal interchange of trade agreements which resulted from the exhaustive negotiations at Torquay, England, is of value to Canada in that it helped to bring closer the ultimate objective of multilateral trade and a free flow of capital throughout the world. In principle, therefore, the Executive Council generally approves the agreements but expresses regret at the failure of the U.S., Great Britain and other sterling-currency Commonwealth countries to reach agreement on reciprocal trade concessions. The Executive Council of The Canadian Chamber of Commerce feels that any successful attempt to lower tariffs and bring about greater freedom of trade is to be applauded.

The official position of The Canadian Chamber of Commerce, representing 700 Boards of Trade and Chambers of Commerce in all ten provinces, on the matter of international trade is to be found in the official Policy Declaration approved at the 21st Annual Meeting in September, 1950, which reads as follows:

INTERNATIONAL TRADE

Canada has established herself in the world as a leading trading nation. The level of Canada's external trade has an effect on the income of every Canadian citizen and, accordingly, the promotion of Canada's business dealing with other countries must necessarily be a chief point in any national program for maintaining and increasing Canadian prosperity.

Experience with governmental trade restrictions and state trading since the end of World War II indicates clearly that international trade (like domestic trade) is best conducted when it is left in the hands of those most experienced in and closest to the business of trading—the businessmen themselves. Government quotas, restrictions and ventures into the trading field can never substitute for the free and natural growth of trade, carried on by private traders who must satisfy the wishes of their customers if they are to stay in business. The Canadian Chamber of Commerce urges the government to continue its efforts to remove restrictive barriers to international trade and to discourage the practice of state trading.

The Canadian Chamber of Commerce urges continued governmental and private efforts to promote a return of multilateral trade among nations, to allow a free flow of capital throughout the world, and to work toward the eventual achievement of the free convertibility of currencies.

During and since World War II Canada has developed new manufacturing potential, and could make even more new products if new markets could be found. The Canadian Chamber notes with approval the efforts now being made toward that end by both government and business and recommends that even greater enthusiasm and imagination be devoted to the task of finding new customers for Canadian goods. Industrialization of various countries, discovery of new natural resources and the raising of the standard of living in many parts of the globe all spell new opportunities which should be investigated by Canadian businessmen and government trade authorities.

The Chamber also recognizes that to have a thriving and expanding export trade, Canada must import goods and services from the countries to which she exports, and, therefore, urges that every facility be extended by government to enable a free flow of commerce in both directions.

Yours sincerely,

(sgd.) C. C. Thackray,
*Vice-Chairman,
Executive Council.*

Then there is a letter from the Canadian Manufacturers' Association signed by Mr. J. T. Stirrett, general manager:

CANADIAN MANUFACTURERS' ASSOCIATION

1404 Montreal Trust Bldg.,
67 Yonge Street,
Toronto 1, Ontario,
June 19, 1951.

Hughes Cleaver, Esq., M.P.,
Chairman,
Standing Committee on Banking and Commerce,
House of Commons,
Ottawa, Canada.

Re: Torquay Trade Agreements

Dear Sir:

I beg to acknowledge with thanks your letter of June 15, advising that if the Association would like to make any representations in regard

to the above subject, they should be received by not later than June 22, the date when the Committee expects to conclude its enquiry.

Accordingly, I am submitting the following:—

1) A copy of a letter addressed to The Right Honourable L. S. St. Laurent, K.C., Prime Minister of Canada, and members of the Cabinet, by the President of the Association, and sent to all members of the Association. This represented the views of members of the Association prior to the Torquay Conference.

2) A copy of a letter written to the Prime Minister, the Minister of Trade and Commerce and the Minister of Finance, by the President of the Association on December 29, 1950, during the progress of the Torquay Conference.

3) A statement approved at the International Trade Conference at the 80th Annual General Meeting of the Canadian Manufacturers' Association in the City of Quebec, P.Q., June 4, 5 and 6, 1951. This was after the results of the Torquay Conference had been published.

Yours faithfully,

(Sgd.) J. T. Stirrett,
General Manager.

Attached are the letters referred to and which are quite long. Do you wish them read?

Mr. BREITHAUP: I do not think it necessary. Perhaps you could read the one from Quebec. That meeting took place after the Torquay Agreement.

Mr. FLEMING: I think the one afterwards certainly should be put in and I think it is of definite interest. I have not had a chance to look it over but I understand that they are giving their views after the agreements were concluded.

The CHAIRMAN: Would you like them read? They are quite long.

Mr. FLEMING: I would suggest that the resolution passed on June 5, 1951, would be a useful one to have on the record. It is just one page long and it reports the views on trade lookout arising out of the Torquay Agreement. The earlier ones are printed communications addressed to all members of the committee and it goes back to December 1950. Probably we do not need it in the record.

Mr. BREITHAUP: Mr. McCormack of the Manufacturers' Association just happened to pop in to the meeting and he tells me that the one of December 29 has a bearing on the situation.

Mr. FRASER: Put them both in.

The CHAIRMAN: Shall I read the letter of December 29 and the resolution of June 5, 1951, from the Canadian Manufacturers' Association?

Mr. BREITHAUP: Place them on the record.

The CHAIRMAN: Very well, they will be placed on the record.

CANADIAN MANUFACTURERS' ASSOCIATION
(Incorporated)

INTERNATIONAL TRADE CONFERENCE
ANNUAL GENERAL MEETING
CANADIAN MANUFACTURERS' ASSOCIATION,
QUEBEC, P.Q., June 5th, 1951.

We are met here at a time our economy is undergoing severe strain largely because of the necessity for Canada and the United States to arm Western Europe so as to prevent a third World War. Part of our produc-

tive capacity has been or will be geared for the production of arms and munitions; there are shortages of steel and many other basic materials, and there is stockpiling in the United States of vital raw materials. At such a time tariffs are of a secondary importance, and it is import restrictions which are interfering with the normal flow of trade, to these markets to which we exported, prior to the last war. Following the Ottawa Conference of 1932, up to 1940, there was a keen interest by manufacturers in exporting to the United Kingdom, Commonwealth countries and British Colonies.

With the exception of certain manufactured goods which they need and which are not obtainable elsewhere, and certain token imports, these countries have maintained very severe restrictions, or total prohibitions, on imports of Canadian manufactured goods since the early years of the war.

It has been our experience that the United States has not been, is, or is likely to be a satisfactory substitute for these former Empire markets from the point of view of most of our members who produce a broad range of manufactured goods.

Despite the announcements from Ottawa from time to time that the United States market is being opened to Canadian manufacturers, only a small percentage of the \$2 billion worth of goods we sent to the United States last year was made up of highly manufactured goods ready for use by the final user.

It is true that the United States tariff rates have been reduced but four years have passed since the United States administration, through its delegates to Geneva, undertook to bring their customs administrative machinery into line with the provisions of the General Agreement on Tariffs and Trade and remove some of the road blocks, and still the United States Customs Simplification Act rests in the House Ways and Means Committee, where it has reposed for the last twelve months.

During the first four months of 1951 imports into Canada from the United States were valued at \$956,800,000 (up \$336,100,000 from a year ago) and domestic and foreign exports to the United States totalled \$724,700,000. Thus there was an adverse balance of \$232,100,000 for the first four months as against an adverse balance a year ago of \$61,900,000.

CANADIAN MANUFACTURERS' ASSOCIATION (Incorporated)

1404 Montreal Trust Bldg.,
67 Yonge Street,
Toronto 1, Ontario,
December 29th, 1950.

The Right Honourable L. S. St. Laurent, K.C.,
Prime Minister of Canada,
Ottawa, Ontario.

Dear Mr. St. Laurent:

Some tariff concessions either in the form of lower duties or binding of rates, granted by Canada to other countries at Geneva or Annecy, have resulted in hardship to Canadian industry. We believe that some adjustment, modification or withdrawal of these concessions would be in the interest of Canada.

We understand that Canada's delegates at the International Trade Conference now being held in Torquay, England, have not been authorized by the Government of Canada to negotiate for such adjustments,

modifications and withdrawals on the assumption that other countries are not taking similar action. We are informed that a number of countries, including the United Kingdom, France, Italy, Belgium, Holland, South Africa and Brazil, have asked for withdrawals or modifications of concessions granted by them at Geneva and Annecy, and that this is delaying the tariff negotiations at Torquay. As regards the United States, despite that country's announced intention not to ask for any withdrawals or modifications of concessions granted at Geneva or Annecy, treaty rates of duties applicable on fur felt hats in item 1526a of the United States Customs Tariff have been withdrawn, and the rates which were in force prior to Geneva became effective on December 1, 1950.

As Geneva was the first large scale multilateral trade agreement negotiated bi-laterally by a number of countries, it is not strange that some concessions were granted through errors of judgment or because of lack of necessary information. The last three years have witnessed many changes in Canada's economic structure, new industries, new products and increased production. These facts, coupled with the loss of traditional export markets, have made the retention of the domestic market, or a substantial portion thereof, increasingly important to many industries.

Therefore, the Canadian Manufacturers' Association respectfully urges that instructions be given to the Canadian delegates at Torquay authorizing them to make such modifications or withdrawals in the Canadian schedules negotiated at Geneva and Annecy as in the judgment of the Canadian tariff negotiators are deemed desirable and advisable.

A similar letter has been written to the Minister of Trade and Commerce and the Minister of Finance.

Yours faithfully,

(Sgd.) W. F. Holding,
President.

With regard to our report I asked the clerk of the committee to draft a report, along the same lines as the one made on the Geneva Agreement.

Mr. FLEMING: Mr. Chairman, does Mr. McCormack wish to say anything? Is he prepared?

Mr. BREITHAUP: He says he is not.

Mr. CRESTOHL: I would like to suggest that we should not close the door to hearing from these three organizations at some date in the future on their opinion as to how these Torquay agreements are working out. Therefore, I think your report should contain a recommendation to the incoming committee that the representatives of these three organizations be invited to follow up and make a report and to give their opinions, after a certain experimental delay has expired, as to how the Torquay negotiations are working out in practice.

Mr. FLEMING: You mean the agreements?

Mr. CRESTOHL: Yes.

Mr. LAING: Were there not four organizations rather than three?

Mr. CRESTOHL: Whatever there are, if there are four they should be invited.

Mr. BREITHAUP: I think Mr. Crestohl has brought up a very good point. I think it would be a proper follow-up on the thing to see how they feel about it at that time. As Mr. Fleming has said, no one knows how this thing is going to work out now. When the House reconvenes or in the new session it would be interesting to know how they do work out.

The CHAIRMAN: How would it be if I called the three who have troubled to write and ask them whether they would like to make representations in the

late fall of this year or whether they think it would be better to wait until the following year? We could meet again tomorrow after I have had a chance to reach them by telephone. I would very much doubt that by November of this year they would have much more information than they have now.

Mr. FRASER: Three months would hardly give them a chance to adjust themselves.

Mr. FLEMING: If we were hearing them today they would give us their best opinion. If we hear them say in another eight months or ten months they could no doubt give us some information as to the way in which the agreements are actually working out. If we heard them in three months very probably there would not have been enough factual development to enable them to give us much more than an opinion statement.

Mr. Crestohl spoke about giving a recommendation to the incoming committee. I understand that all we can do is make a recommendation to the House but perhaps it would meet the situation if we had a simple recommendation added to the report, to the effect that consideration may be given to a review by this committee of the way the agreements are working out in practice after they have been in operation for a sufficient length of time.

Mr. GINGRAS: In 1952?

Mr. FLEMING: Do not put a definite date, just say after sufficient time.

Mr. BREITHAUP: After all, the decision would remain with the House.

Mr. FLEMING: Yes, to see whether or not they need a review at that time. I really do not see much point in asking for it now, until sufficient time has elapsed for somebody to gather some information about how they are working out.

The CHAIRMAN: My experience has been that recommendations of that nature, unless made reasonably definite, and unless tied down as to date, just die. If the committee is serious about this I would like to telephone these men and get their best opinion as to the earliest date upon which they will be able to give us factual evidence on how the agreements are working. We could then put a date in—"that your committee recommends that this subject be again referred to the Banking and Commerce Committee for study in the session of the year so and so"—and then any member of the House can bring it up on the floor of the House and say: There is the recommendation, and this is the year so and so—what about it?

Mr. FLEMING: Would you consult with them?

The CHAIRMAN: I will telephone them.

Mr. MACDONNELL: Just before we conclude, at our last meeting when we discussed the preferences, there was considerable indication that circumstances might quite easily develop in which those preferences could very easily become much more important to us than they are now. That indeed seemed to me to be the only thing which could be called in any way constructive, and I think we should clear the matter in our minds. Would there be any objection to this committee referring back to the last meeting and considering the desirability of broadening the basis in every way and in particular of pursuing—if there is a convenient way of pursuing—the question of trade within the commonwealth?

The CHAIRMAN: Would you be good enough to draft what you have in mind? I would feel better about it if I had a chance to submit it to Mr. Hector McKinnon. I would not want to do anything in this committee that would be misunderstood by other countries but I would be glad to submit it to him if you would draft it this afternoon. Thank you for bringing that matter up, Mr. Macdonnell.

We will meet tomorrow afternoon at 4 o'clock.

I should mention to the committee that we have a private bill to deal with tomorrow morning and I would like to have a quorum at 10 o'clock.

Mr. FULTON: Provided that the bill gets second reading.

The CHAIRMAN: I think it will.

Mr. CRESTOHL: Seeing that you have been so nice in asking us we will be here.

JUNE 27, 1951.

The CHAIRMAN: Gentlemen, I hope you are not becoming impatient. We are going to wait as a matter of courtesy for Mr. Macdonnell.

Mr. FRASER: He will be here in about one minute.

The CHAIRMAN: Then we will take up Mr. Fleming's suggestion which is the last one on the revised sheet.

Your committee is of the opinion that further study of the Torquay Trade Agreement should be made after a sufficient time has elapsed to accurately assess its actual trading results, and with this in view, recommends that the subject matter of the Torquay negotiations should again be referred to a committee of the House at the 1952 session of parliament.

When Mr. Fleming brought up that suggestion I promised I would contact the Exporters' Association to find out how soon the trade pattern resulting from the agreements would be evidenced, and Mr. Marsh told me that after four or five months had expired actual results should be apparent.

Mr. FRASER: On that, you say: "... should again be referred to a committee of the House ...". Should you not say: "... should be referred to the Banking and Commerce Committee...?"

The CHAIRMAN: Perhaps I was unduly modest.

Mr. FRASER: Personally I think you should put that in.

Mr. MACDONNELL: I apologize, Mr. Chairman, for being late.

The CHAIRMAN: We knew you were tied up.

Mr. CRESTOHL: Who is Mr. Marsh?

The CHAIRMAN: Mr. Marsh is the secretary of the Exporters' Association.

Mr. FRASER: He used to be with Mr. C. D. Howe in Munitions and Supply—

The CHAIRMAN: Do you wish to change that to read "... be referred to the Banking and Commerce Committee ..." or just "... a committee of the House ..."?

Mr. FRASER: I would make it definite.

Mr. CRESTOHL: Why fix on 1952?

Mr. FRASER: That gives them long enough.

The CHAIRMAN: The fall would not give them long enough.

Mr. CRESTOHL: Except that Mr. Marsh tells you four or five months. That brings you within the fall session.

The CHAIRMAN: No, the agreements came into operation in June.

Mr. CRESTOHL: June, July, August, September, October, November—we will still be here.

The CHAIRMAN: I am in the hands of the committee.

Mr. CRESTOHL: I suggested the other day that we might have the information by the fall session and now you confirm it.

Mr. CARROLL: Not that I know anything about it, but I would think it would be better to wait until the 1952 session, and even then I think it is going to be early, because you are not going to have the true import of these under present conditions.

Mr. BREITHAUP: Yes, because there will be so many emergency regulations—they will interfere with the normal functioning of this.

Mr. CRESTOHL: It does not make much difference.

The CHAIRMAN: Then, in dealing with the last paragraph of the draft report, Mr. Fraser moves the words "a committee" be struck out where it appears in the second last line and that we substitute therefor the words "the Standing Committee on Banking and Commerce". All those in favour of the amendment?

Carried.

Then, referring to the other two paragraphs, Mr. Macdonnell was kind enough to put in writing his suggestions, which I will read:

The deliberations of the committee brought out the fact that, while preferences within the commonwealth were not of any great significance when we have a seller's market, on the other hand, in a buyer's market they have been in the past and could easily be again of vital significance.

We, therefore, suggest that consideration be given to the desirability of pursuing in every way possible, by the holding of conferences of members of the commonwealth and otherwise, the expansion of commonwealth preferences in any manner not inconsistent with our other trade obligations.

The committee will recall that when Mr. Macdonnell made his suggestion I said that I would prefer to submit his recommendations in writing to Mr. Hector McKinnon for his opinion. I saw Mr. McKinnon this morning and he reminded me, Mr. Macdonnell, that our present trade obligations are such that no further extension can be made and no further widening of the preferences can be made; and he felt that the way your recommendation was worded it would carry an inference that does not exist. Therefore, I asked him to redraft it and you now have the redraft before you.

The deliberations of the committee brought out the fact that, while preferences within the commonwealth were not of any great significance when we have a seller's market, on the other hand, in a buyer's market they have been in the past and could easily again be of vital significance. The Torquay agreement, as was the Geneva agreement, is based upon the principle that no new preferences will be granted and no existing preferences will be widened.

Your committee recommends that in further trade negotiations with other countries, the Government should follow the existing practice of not narrowing or reducing the margin of preference without receiving in return full and adequate compensation for such action.

Mr. LAING: Mr. Chairman, was this first sentence extracted from the evidence of the witnesses before the committee? I refer to the first sentence beginning "The deliberations of the committee . . .". Did that come out of the evidence? Is that a statement of fact?

The CHAIRMAN: I think that is a reasonably accurate summary of the general statement made by Mr. McKinnon in that regard. I am following exactly the wording submitted by Mr. Macdonnell and Mr. McKinnon has checked it.

Mr. LAING: Is it true or is it just an academic statement?

Mr. MACDONNELL: Do you not remember that Mr. Harkness asked one of the witnesses about the bacon agreement particularly and I think he was told at that time that it had been of great importance. I went through the evidence again and, when you question it, I would be less sure of it had not Mr. McKinnon agreed to it.

Mr. LAING: I was wondering if it was in the evidence anywhere—if it was a statement Mr. McKinnon had made?

Mr. MACDONNELL: Well, I read the evidence over and it seemed to me to be a fair statement.

The CHAIRMAN: It was discussed and although the wording was perhaps not volunteered by a witness it is certainly close.

Mr. LAING: Well, let us get down to facts. I asked a question on trade between Canada and Great Britain and I have received the answer. Our imports in 1933 were \$92 million but in 1950 they were \$404 million. Our exports abroad were of the nature of \$280 million but they have been \$1,200 million since. So I mean to say are they of "vital" significance. We were dealing with puny sums in those days.

The CHAIRMAN: In those days reasonably small sums, weighed with present values, were of extreme importance.

Mr. LAING: That can be so but to say they are of "vital significance"—when you have no market at all a very small sum is probably good, but I think the statement is too strong to find proof for.

The CHAIRMAN: Do you recall what page that was on, Mr. Macdonnell?

Mr. MACDONNELL: It was on the last day.

The CHAIRMAN: I distinctly remember.

Mr. MACDONNELL: I think there was some discussion about apples but it was about bacon that I remember particularly.

Mr. LAING: Out of our preference at that time we got larger sales of wheat at 55 cents a bushel, and larger sales of lumber at \$19 a thousand, but I do not think it is sound to make this statement in the light of the results of the 1932 agreements.

Mr. FLEMING: The witnesses did not say the preference always yielded the price we wanted but the effect of the evidence was that they were of vital significance in the economic situation at that time, and it would be a brave man who would now say that such a situation might never recur.

Mr. MACDONNELL: All it says is "... and could easily be again ...".

Mr. FLEMING: We hope we never come to that situation again but on the other hand if the United States Congress reverses its policies—and there are some disturbing elements down there now—the picture could change very rapidly.

Mr. LAING: I thought it was perhaps attaching too much importance to the evidence to make a statement like that, because when you get the trade figures from 1930 on they speak very loudly. We had a distress situation in the world at that time.

Mr. FLEMING: You had a buyer's market, from the point of view of the market, for a couple of generations. I can see some value in putting in a reference to the preferences because that was one question raised in the House during the debate when these agreements were referred to the committee.

Mr. BALCOM: In the first line of the second paragraph, Mr. Chairman, the committee recommends "in further trade negotiations." Is there a difference there between "further" and "future"?

Mr. MACDONNELL: I have no desire to press this wording, Mr. Chairman, but would it not meet Mr. Laing's view if we said:

... while preferences within the commonwealth were not of any great significance when we have a seller's market, on the other hand, in a buyer's market they have been in the past and could easily in some circumstances be of vital significance.

Mr. LAING: We are merely saying that we should have an expansion of commonwealth preferences if we got into a buyer's market again. That would not be of any use today without convertibility of sterling.

Mr. MACDONNELL: Surely we can discuss only what is within our competence here.

Mr. LAING: The first prerequisite is not going to be the desire of the commonwealth to give preferences to one another if they have not got the currency to pay for the goods.

The CHAIRMAN: Could we reach an agreement in this way?

Mr. CARROLL: This is Mr. McKinnon's own drafting, is it?

The CHAIRMAN: No. In the first paragraph he concurred in Mr. Macdonnell's draft without change.

Mr. CARROLL: He agreed with it but he has made a change in Mr. Macdonnell's paragraph as we have it now.

The CHAIRMAN: Yes.

Mr. CARROLL: I have a fairly distinct recollection of Mr. McKinnon or of some other witness using almost the precise words. I am not absolutely certain of it but I have a fairly distinct recollection. I am pretty sure it was Mr. McKinnon who was giving evidence at the time.

Mr. FLEMING: Well, if Mr. McKinnon has looked over this and if it carries his endorsement, then in view of the regard in which we hold Mr. McKinnon, I for one am prepared to take his statement.

Mr. LAING: How can we say they are of vital significance when, after three years' experience, we have enjoyed such an export trade?

Mr. FLEMING: We must look at the quantity as well as the dollars; and in regard to the total again—the total of world trade at that time—I think it is not the slightest exaggeration to say that they were of vital significance at that time.

The CHAIRMAN: Mr. Laing and Mr. Macdonnell, would this wording meet both of your views: By deleting the words in the fourth line "in a buyer's market", and substituting "under normal trade and currency exchange conditions."

Mr. LAING: That would be acceptable, so far as I am concerned.

Mr. FLEMING: In normal times, that would not meet the situation.

The CHAIRMAN: In normal times there is a buyer's market, is there not?

Mr. FRASER: No.

The CHAIRMAN: No. Well, Mr. Laing, unless you have any very serious objection—

Mr. LAING: No, I have no great objection to it, but I hardly think that it is a factual statement. I would hate to have to try to prove it.

The CHAIRMAN: Could we not substitute "real" for "vital" significance?

Mr. LAING: That does not make it much different.

The CHAIRMAN: You have Dr. Isbister's evidence there. Will you turn it up?

Mr. LAING: I think there was a reference made by one of the witnesses to the buyer's and seller's markets.

The CHAIRMAN: We have turned it up. It is at page 198.

Mr. LAING: What does it say?

The CHAIRMAN: You read it.

Mr. LAING: There is a reference to buyer's and seller's markets.

Mr. MACDONNELL: I think anyone would agree that we had a buyer's market in 1933, and that we have a seller's market now.

Mr. FRASER: We have a seller's market now except for automobiles.

The CHAIRMAN: You will see at bottom of the page:

My rough conclusions would be just to repeat briefly that in the past our market for manufactured goods in parts of the British Empire and commonwealth outside the United Kingdom have not only been assisted by the preferential system but indeed the market was created and based upon the preferential system.

Mr. LAING: The exact words were uttered, but they happened to have been said by Mr. Harkness. May I read them?

The CHAIRMAN: What is the page?

Mr. LAING: Page 199, about the middle of the page.

The CHAIRMAN: Yes, and I read as follows:

Mr. Harkness: From all that it would perhaps be a fair generalization to say that the British preferences have been of great value to us both as far as the basic industry is concerned as well as the manufacturing industries when there was a plentiful supply of goods; in other words, when there was a buyer's market. But when you get into a situation as exists today, a seller's market, they are of much less value.

Mr. Isbister: Well, that is even a little more complex than that because a year or two ago we were approaching a position where there was a very plentiful supply of all kinds of goods but the United Kingdom and sterling area countries were still saving dollars and the preferential system did not help us, but to your statement has to be added additional the fact that preferences are of assistance to us perhaps most in a period when there is a glut of goods and therefore price competition becomes important; secondly, in a period that the United Kingdom and the sterling area have their markets open to us.

The CHAIRMAN: Dr. Isbister's answer, Mr. Laing—

Mr. LAING: —certainly qualifies this first sentence here.

The CHAIRMAN: The last sentence I read is a very plain answer:

but to your statement has to be added additional the fact that preferences are of assistance to us perhaps most in a period when there is a glut of goods and therefore price competition becomes important;

Mr. FLEMING: Am I right in understanding that Mr. McKinnon has been over this? After all we have got Mr. McKinnon's authority behind it, and we cannot do much better than that.

The CHAIRMAN: I think Dr. Isbister's answer is pretty well paraphrased by this recommendation. He certainly refers to the seller's market and the buyer's market and that is most advantageous to us.

Mr. LAING: Could we insert the words, after "easily again": "with improvement in the international currency picture would be of vital importance"?

The CHAIRMAN: Mr. Macdonnell, how was the foreign exchange market in 1932-33? Was there parity?

Mr. MACDONNELL: I would not want to answer that. Actually the pound was strong then.

The CHAIRMAN: Mr. Laing suggests that we insert "on the other hand in the buyer's market and with normal trade exchange."

Mr. MACDONNELL: That seems to me to be something we never discussed in this committee and it is quite foreign. I am not pressing this at all. It seems to me to be one thing that might be of a constructive nature that came out. I say I must agree with Mr. McKinnon.

Mr. BALCOM: Is not Mr. Laing's idea or thought implied here?

Mr. FLEMING: You are only saying "if it could be." Now, that word "could" would presuppose certain conditions.

Mr. MACDONNELL: I do not want to stick to the word "vital".

The CHAIRMAN: I think we have threshed it out pretty well. All those in favour of the amendment as it stands please signify.

Mr. BREITHAUP: What is the amendment?

The CHAIRMAN: You have it in front of you. The first two paragraphs. All those in favour please signify. Opposed, if any?

It is unanimously carried.

Mr. Laing moved the adoption of the committee report as amended by the amendment submitted today.

Mr. CRESTOHL: Before you adopt a final report I would like to make a suggestion. I am rather new at the procedure and therefore may be on delicate ground on the suggestion I would like to make, but from the experience I have had here when we review what transpired we concluded that our team went over to Torquay and simply came back and reported to us, and during the course of our deliberations we have found that it would have been perhaps helpful if we could have seen our team before it went over and presented some of the problems they would have to deal with and perhaps they could have received some direction from us. I want to suggest, if it is in order, that we recommend in future when an international conference is going to take place with respect to trade and commerce that our team meet a committee upon it such as this and discuss with it some of the problems they may face, and receive direction, seek our advice, and when they return we can then hear their report, deliberate with them, see what they achieved and make the comparison. I do not know, as I said, whether my suggestions will be in line with the rules of procedure. Perhaps Mr. Fleming and others who have had more experience than I can clarify that, but it seems to me that we would serve a much more useful purpose if we could have met with those gentlemen before they went over, and then received their report.

Mr. FRASER: Do you not think, Mr. Chairman, that the Tariff Board, during the past few years since the Geneva Agreement, have been compiling data regarding the pros and cons of what was what and then when they went to Torquay they knew what to bargain for; they knew because the manufacturers and the importers and exporters had been approaching them. They acknowledge that.

Mr. CRESTOHL: Then what is actually the function of this committee?

Mr. BALCOM: Educational.

Mr. CRESTOHL: I am just making a suggestion as to what I think is a procedure that might be helpful to them. Of course, they compiled their evidence over a period of years. Let them come to parliament with that evidence, let them seek the advice of the House and then go to bat—not to come back here and face parliament with a fait accompli.

Mr. CARROLL: They are getting some pretty good instructions from the committee in this:

Your committee recommends that in further trade negotiations with other countries, the government should follow the existing practice of not narrowing or reducing the margin of preference without receiving in return full and adequate compensation for such action.

It seems to me we could not give them any better instructions than that if they met us here.

Mr. FRASER: They have to horse trade all the way through over there.

Mr. MACDONNELL: Do you not think, Mr. Chairman, if they came to us first of all they would have to deal purely in generalities, partly because, as Mr. Fraser has said, they could not expose their hand? If there are any trade secrets or negotiating secrets they would have to keep them to themselves. It is an attractive idea but it does not seem to me to be very practical.

The CHAIRMAN: Well, the suggestion is thrown out and we will have time during the recess to study it further and when we meet again Mr. Crestohl can reintroduce it.

Mr. CRESTOHL: I prefaced my remark by saying I may be on delicate ground, not being familiar with the procedure. But when we are faced with a fait accompli what can we do? Should we say you did well, or criticize them saying: You have not done well?

Mr. MACDONNELL: Have not governments got to do that kind of thing in many cases?

Mr. LAING: Did they know what they wanted to do when they went over? They knew what they wanted to do. I think negotiations are tight negotiations.

Mr. CRESTOHL: I am not reflecting on the negotiations but I thought perhaps we should try to make the functions of this committee a little more useful, if possible.

Mr. BALCOM: Any committee member can interview the Tariff Board at any time, see them individually, just the same as a manufacturer can.

Mr. FRASER: Yes, you can meet the Tariff Board at any time.

The CHAIRMAN: I appreciate your point exactly, Mr. Crestohl. My own frank and offhand opinion is this, that these negotiations were referred to this committee in order that members of parliament might know what had happened, might know fully of all the preparations that were made prior to our team leaving for the old country, and might be in a position to criticize if anything wrong had been done. Your stand is that it would be preferable to give advice in advance, rather than to criticize after the event has occurred.

Well, in view of the fact that such adequate precautions were taken by the team in advance to make themselves acquainted with the underlying needs of our exporters and importers, and in view of the fact that the results have been so gratifying, I just wonder whether any committee of parliament, even had it met and discussed the whole problem with the team before it went to Torquay, could have made any helpful suggestions to them? Then, of course, there is the other point that I think would be most important—in any negotiation of this nature Canada's team should not go with its hands tied in advance.

Mr. CRESTOHL: Mr. Chairman, I would like to point out that the objective of my suggestion is not to pass around criticism. My objective is that we meet with the team in advance to be of assistance to them, and to give them such direction as we may be able to give them.

Mr. FLEMING: Not direction, that comes from the government.

Mr. CRESTOHL: Well, perhaps "direction" is the wrong word.

The CHAIRMAN: We are holding a post mortem on something that has happened but, looking over the whole picture, does any member of the committee think that if we had met our team and discussed the whole matter before they left the results would have been any better than they have been?

Mr. CRESTOHL: No one is in a position to say.

Mr. LAING: The best we can expect is that such a meeting would doubly emphasize the representations that were already made by various groups. I have in mind as they advised us, that they had a great deal of representation on the one business of plywood. The British Columbia members have been particularly delighted over this thing and our delight is already confirmed because in British Columbia there are new plywood plants in the course of

construction involving some \$4½ million. Two firms are doubling their plants, the H. R. MacMillan Company, and Western Plywoods. A lot of material came from the plywood manufacturers and plywood was one of the things they went after and they got double the protection from the American manufacturers.

If Mr. Crestohl's suggestion passed then all we could do would be to add strength to the representations from certain groups and beyond that I do not think much could be gained.

Mr. FRASER: You would have to hold meetings on that type of thing, prior to Torquay for instance, in camera.

Mr. FLEMING: Mr. Chairman, I think Mr. Crestohl has put forward a suggestion for consideration and not necessarily as a recommendation in this present report. It is something that we can ponder on and discuss when we come back at the next session.

Mr. CRESTOHL: As I said I am not familiar with the procedure.

The CHAIRMAN: I would suggest you have a chat with the chairman of the Tariff Board and get his reaction.

Mr. FLEMING: You had better have a chat with the Minister of Trade and Commerce too.

Mr. McMILLAN: Is it not the responsibility of the government to put forward these proposals?

The CHAIRMAN: Only in part. The trade makes many proposals. As Mr. Laing has mentioned, the trade made the proposals on plywood and I imagine they gave our team an immense amount of material to use and to help them in making a deal.

Well, gentlemen, you have been very patient during this inquiry and the Chair wishes to thank you.

Mr. FLEMING: As this is our last meeting I think the committee would like to express its appreciation for the work of the chairman and also for the work of our secretary.

Some Hon. MEMBERS: Hear, hear.

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